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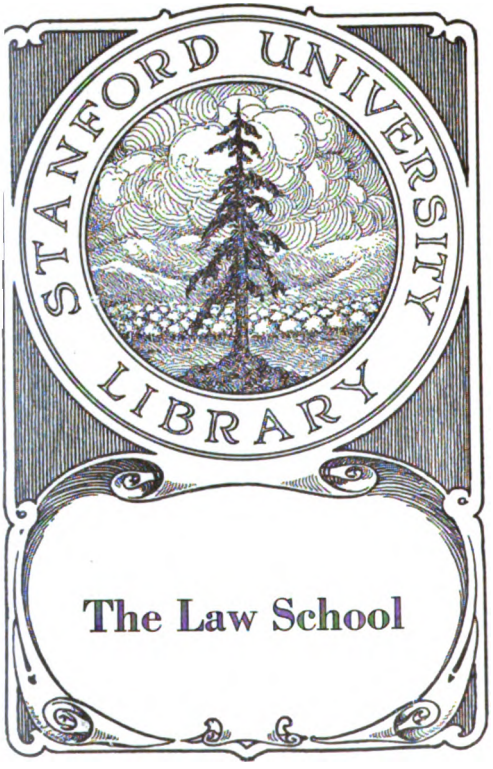

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THE CONSTITUTION

OF THE

UNITED STATES OF AMERICA.

VOL. II.

"As the British Constitution is the most subtile organism which has proceeded from progressive history, so the American Constitution is the most wonderful work ever struck off at a given time by the brain and purpose of man."—*William E. Gladstone.*

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HISTORY

OF THE

FORMATION OF THE CONSTITUTIO

OF THE

UNITED STATES OF AMERICA.

BY

GEORGE BANCROFT.

IN TWO VOLUMES

VOL. II.

SIXTH EDITION.

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BOOK III.

THE FEDERAL CONVENTION.

MAY–SEPTEMBER, 1787.

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CHAPTER I.

THE CONSTITUTION IN OUTLINE.

14 MAY TO 13 JUNE, 1787.

Do nations float darkling down the stream of the ages without hope or consolation, swaying with every wind and ignorant whither they are drifting? or, is there a superior power of intelligence and love, which is moved by justice and shapes their course?

From the ocean to the American outposts nearest the Mississippi one desire prevailed for a closer connection, one belief that the only opportunity for its creation was come. Men, who, from their greater attachment to the states, feared its hazards, neither coveted nor accepted an election to the convention, and in uneasy watchfulness awaited the course of events. Willie Jones of North Carolina, declining to serve, was replaced by Hugh Williamson, who had voted with Jefferson for excluding slavery from the territories. Patrick Henry, Thomas Nelson, and Richard Henry Lee refusing to be delegates, Edmund Randolph, then governor of Virginia and himself a delegate to the convention, named to one vacancy James

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CHAP. I. 1787. May. McClurg, a professor in the college of William and Mary, whom Madison had urged upon congress for the office of secretary of foreign affairs. No state except New York sent a delegation insensible to the necessity of a vigorous union. Discordant passions were repressed by the solemnity of the moment; and, as the statesmen who were to create a new constitution, veterans in the war and in the halls of legislation, journeyed for the most part on horseback to their place of meeting, the high-wrought hopes of the nation went along with them. Nor did they deserve the interest of the people of the United States alone; they felt the ennobling love for their fellow-men, and knew themselves to be forerunners of reform for the civilized world.

George Washington was met at Chester by public honors. From the Schuylkill the city light horse escorted him into Philadelphia, the bells chiming all the while. His first act was to wait upon Franklin, the president of Pennsylvania.

14. On the fourteenth of May, at the hour appointed for opening the federal convention, Virginia and Pennsylvania, the only states which were sufficiently represented, repaired to the state-house, and, with others as they gathered in, continued to do so, adjourning from day to day. Of deputies, the credentials of Connecticut and Maryland required but one to represent the state; of New York, South Carolina, and Georgia, two; of Massachusetts, New Jersey, Delaware, Virginia, and North Carolina, three; of Pennsylvania, four. The delay was turned to the best account by James Madison of Virginia. From

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the completion of the Virginia delegation by the arrival of George Mason, who came with unselfish zeal to do his part in fulfilling "the expectations and hopes of all the union," they not only attended the general session, but "conferred together by themselves two or three hours every day in order to form a proper correspondence of sentiments."[1] As their state had initiated the convention, they held it their duty at its opening to propose a finished plan for consideration. CHAP. I. 1787. May 14.

The choice lay between an amended confederacy and "the new constitution"[2] for which Washington four years before had pleaded with the people of every state. "My wish is," so he had written to Madison, "that the convention may adopt no temporizing expedients, but probe the defects of the constitution to the bottom and provide a radical cure, whether agreed to or not. A conduct of this kind will stamp wisdom and dignity on their proceedings, and hold up a light which sooner or later will have its influence."[3] 14-24.

We know from Randolph himself that before departing for the convention he was disposed to do no more than amend the confederation; and his decision was likely to have great weight in the councils of his own commonwealth. When his royalist father, attorney-general of Virginia, took refuge with the English, the son cleaved to his native land. At his own request and the solicitation of Richard Henry Lee, Washington received him as an aid during the siege

[1] George Mason to his son, Philadelphia, May 20. MS.

[2] Washington to Lafayette, 5 April, 1783. Sparks, viii. 412.

[3] Sparks, ix. 250, March 31, 1787.

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CHAP. I. 1787. May 14–24.

of Boston. In 1776 he took a part in the convention for forming the constitution of Virginia; and the convention rewarded his patriotism by electing him at twenty-three years of age attorney-general of Virginia in the place of his father. In 1779 he preceded Madison by a year as a delegate to congress. In the effort for the reform of the confederation, he, with Ellsworth of Connecticut and Varnum of Rhode Island for his associates, was the chairman of the committee appointed to report on the defects of the confederacy and the new powers necessary for its efficiency. In 1786 he was elected governor of Virginia; and now in his thirty-fourth year he was sent to the convention, bringing with him a reputation for ability equal to his high position, and in the race for public honors taking the lead of Monroe. But with all his merit there was a strain of weakness in his character, so that he was like a soft metal which needs to be held in place by coils of a harder grain than its own. That support he found in Madison, who had urged him to act a foremost part in the convention, and had laid before him the principles on which the new government should be organized; and in Washington, who was unceasing in his monitions and encouragement. Randolph, on his arrival in Philadelphia, at once yielded to their influence, and with them became persuaded that the confederacy was destitute of every energy which a constitution of the United States ought to possess.[1]

The result was harmony among the Virginia delegates. A plan for a national government, which em-

[1] Randolph to Speaker, 10 Oct., 1787.

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bodied the thoughts of Madison, altered and amended by their joint consultations, was agreed to by them all. To Randolph, as the official representative of the state, was unanimously assigned the office of bringing forward the outline which was to be known as the plan of Virginia. This forethought provided in season a chart for the voyage, so that the ship, skilfully ballasted and trimmed from the beginning, could be steered through perilous channels to the wished-for haven.

CHAP. I. 1787. May 14–24.

A government founded directly on the people seemed to justify and require a distribution of suffrage in the national legislature according to some equitable ratio. Gouverneur Morris and other members from Pennsylvania in conversation urged the large states to unite from the first in refusing to the smaller states in the federal convention the equal vote which they enjoyed in the congress of the confederacy; but the Virginians, while as the largest state in extent and in numbers they claimed a proportioned legislative suffrage as an essential right which must be asserted and allowed, stifled the project, being of the opinion that the small states would be more willing to renounce this unequal privilege in return for an efficient government, than to disarm themselves before the battle without an equivalent.[1]

On the seventeenth, South Carolina appeared on the floor; on the eighteenth, New York; on the twenty-first, Delaware; on the twenty-second, North Carolina. Of the delegates, some were for half-way meas-

[1] Madison Papers, edited by Gilpin, 726. Stereotyped reprint of Elliot, 125.

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CHAP. I. 1787. May 14–24. ures from fear of displeasing the people; others were anxious and doubting. Just before there were enough to form a quorum, Washington, standing self-collected in the midst of them, his countenance more than usually solemn, his eye seeming to look into futurity, said: "It is too probable that no plan we propose will be adopted. Perhaps another dreadful conflict is to be sustained. If, to please the people, we offer what we ourselves disapprove, how can we afterward defend our work? Let us raise a standard to which the wise and the honest can repair; the event is in the hand of God."[1]

25. On the twenty-fifth, New Jersey, last of the seven states needed to form a house, was represented by William Churchill Houston, who had been detained by illness, and was too weak to remain long. There were from the South four states, from the North, three; from the South, nineteen members, from the North, ten. At the desire of Benjamin Franklin of Pennsylvania, Washington was unanimously elected president of the convention. During the organization it was noticed that the delegates from Delaware were prohibited from changing the article in the confederation establishing the equality of votes among the states.[2]

28. On the twenty-eighth, the representation was increased to nine states by the arrival of Massachusetts and Maryland. A letter was read from men of Providence, Rhode Island, among them John Brown, Jabez Bowen, Welcome Arnold, and William Barton, ex-

[1] Oration by Gouverneur Morris upon the death of Washington, Dec. 31, 1799, pp. 20, 21. Morris was in May, 1787, present in Philadelphia, and was of the convention.

[2] Gilpin, 723; Elliot, 124.

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plaining why their state would send no delegates to the convention, and hopefully pledging their best exertions to effect the ratification of its proceedings.[1] The letter was forwarded and supported by Varnum, a member from Rhode Island in congress. CHAP. I. 1787. May 28.

The delegates from Maryland, chosen at a time when the best men of the state were absorbed in a domestic struggle against new issues of paper money, and its senate by its stubborn resistance was estranged from the house, did not adequately represent its public spirit; yet the majority of them to the last promoted the national union. Of the fifty-five in the convention, nine were graduates of Princeton, four of Yale, three of Harvard, two of Columbia, one of Pennsylvania; five, six, or seven had been connected with William and Mary's; Scotland sent one of her sons, a jurist, who had been taught at three of her universities, and Glasgow had assisted to train another; one had been a student in Christ Church, Oxford, and he and three others had been students of law in the Temple. To many in the assembly the work of the great French magistrate on the "Spirit of Laws," of which Washington with his own hand had copied an abstract by Madison, was the favorite manual; some of them had made an analysis of all federal governments in ancient and modern times, and a few were well versed in the best English, Swiss, and Dutch writers on government. They had immediately before them the example of Great Britain; and they had a still better school of political wisdom in the republican constitutions of

[1] Gilpin, 727; Elliot, 125, and Appendix No. 1.

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CHAP. I. 1787. May 28. their several states, which many of them had assisted to frame. Altogether they formed "the goodliest fellowship of" lawgivers "whereof this world holds record." In their standing rules they unanimously forbade any registry to be made of the votes of individuals, so that they might, without reproach or observation, mutually receive and impart instruction; and they sat with closed doors, lest the publication of their debates should rouse the country to obstinate conflicts before they themselves should have reached their conclusions.

29. On the twenty-ninth, the governor of Virginia opened the business of the convention in this wise: "To prevent the fulfilment of the prophecies of the downfall of the United States, it is our duty to inquire into the defects of the confederation and the requisite properties of the government now to be framed; the danger of the situation and its remedy.

"The confederation was made in the infancy of the science of constitutions, when the inefficiency of requisitions was unknown; when no commercial discord had arisen among states; when no rebellion like that in Massachusetts had broken out; when foreign debts were not urgent; when the havoc of paper money had not been foreseen; when treaties had not been violated; and when nothing better could have been conceded by states jealous of their sovereignty. But it offered no security against foreign invasion, for congress could neither prevent nor conduct a war, nor punish infractions of treaties or of the law of nations, nor control particular states from provoking war. The federal government has no constitutional

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power to check a quarrel between separate states; nor to suppress a rebellion in any one of them; nor to establish a productive impost; nor to counteract the commercial regulations of other nations; nor to defend itself against encroachments of the states. From the manner in which it has been ratified in many of the states, it cannot be claimed to be paramount to the state constitutions; so that there is a prospect of anarchy from the inherent laxity of the government. As the remedy, the government to be established must have for its basis the republican principle."

He then proposed fifteen resolutions, which he explained one by one.

"The articles of confederation ought to be so corrected and enlarged as to accomplish the objects proposed by their institution; namely, 'common defence, security of liberty, and general welfare.'

"The rights of suffrage in the national legislature ought to be proportioned to the quotas of contribution, or to the number of free inhabitants.

"The national legislature ought to consist of two branches, of which the members of the first or democratic house ought to be elected by the people of the several states; of the second, by those of the first, out of persons nominated by the individual legislatures.

"The national legislature, of which each branch ought to possess the right of originating acts, ought to enjoy the legislative rights vested in congress by the confederation, and moreover to legislate in all cases to which the separate states are incompetent, or in which the harmony of the United States might be interrupted by the exercise of individual legislation;

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CHAP. I. 1787. May 29.

to negative all laws passed by the several states contravening the articles of union; and to call forth the force of the union against any member of the union failing to fulfil its duty under the articles thereof.

"A national executive, chosen by the national legislature and ineligible a second time, ought to enjoy the executive rights vested in congress by the confederation, and a general authority to execute the national laws.

"The executive and a convenient number of the national judiciary ought to compose a council of revision, with authority to examine every act of the national legislature before it shall operate.

"A national judiciary ought to be established; to consist of supreme and inferior tribunals; to be chosen by the national legislature; to hold their offices during good behavior, with jurisdiction to hear and determine all piracies and felonies on the high seas; captures from an enemy; cases in which foreigners and citizens, a citizen of one state and a citizen of another state, may be interested; cases which respect the collection of the national revenue; impeachments of national officers; and questions which may involve the national peace and harmony.

"Provision ought to be made for the admission of states lawfully arising within the limits of the United States.

"A republican government and the territory of each state ought to be guaranteed by the United States to each state.

"Provision ought to be made for the completion of all the engagements of congress, and for its continu-

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ance until after the articles of union shall have been adopted.

1787. May 29.

"Provision ought to be made for the amendment of the articles of union; to which the assent of the national legislature ought not to be required.

"The legislative, executive, and judiciary powers, within the several states, ought to be bound by oath to support the articles of union.

"The amendments which shall be offered to the confederation by the convention ought, after the approbation of congress, to be submitted to assemblies of representatives, recommended by the several legislatures to be expressly chosen by the people to consider and decide thereon."

Randolph concluded with an exhortation to the convention not to suffer the present opportunity of establishing general harmony, happiness, and liberty in the United States to pass away unimproved.[1]

The new articles of union would form a representative republic. The nobleness of the Virginia delegation appeared in the offer of an option to found representation on "free inhabitants" alone. The proposed government would be truly national. Not the executive, not the judges, not one officer employed by the national government, not members of the first branch of the legislature, would owe their election to the states; even in the choice of the second branch of the national legislature, the states were only to nominate candidates.

It is worthy of note that, as Randolph declared the proportioned rule of suffrage to be "the basis upon

[1] Gilpin, 731–735; Elliot, 126–128.

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CHAP. I. 1787. May 29.

which the larger states could assent to any reform," saying, "We ought to be one nation," William Paterson of New Jersey made note that "sovereignty is an integral thing," meaning that in the new union the states must be equal unless they all were to be merged into one.[1] The house referred the propositions of Virginia to a committee of the whole on the state of the union.[2] Charles Pinckney of South Carolina, a young man of twenty-nine, then presented a plan for a constitution, "grounded on the same principles[3] as the resolutions" of Virginia. It received the same reference, but no part of it was used, and no copy of it has been preserved.

30. On the morning of the thirtieth, Nathaniel Gorham of Massachusetts having been elected chairman of the committee of the whole, Randolph offered a resolution,[4] which Gouverneur Morris had formulated, "that a national government ought to be established, consisting of a supreme legislative, executive, and judiciary." The force of the word "supreme" was explained to be, that, should the powers to be granted to the new government clash with the powers of the states, the states were to yield.[5]

Pierce Butler of South Carolina[6] advanced the business of the day by saying in the spirit of Montesquieu: "Heretofore I have opposed the grant of new powers to congress because they would all be vested in one body; the distribution of the powers among different bodies will induce me to go great lengths in its support."

[1] Paterson MSS.
[2] Gilpin, 735; Elliot, 128.
[3] Yates in Elliot, i. 391.
[4] Gilpin, 747; Elliot, 132.
[5] Yates in Elliot, i. 392.
[6] Gilpin, 747, 748; Elliot, 133.

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"In all communities," said Gouverneur Morris, "there must be one supreme power and one only. A confederacy is a mere compact, resting on the good faith of the parties; a national, supreme government must have a complete and compulsive operation." Mason argued "very cogently": "In the nature of things punishment cannot be executed on the states collectively; therefore such a government is necessary as can operate directly on individuals."[1] 1787. May 30.

Roger Sherman, who arrived that morning and enabled Connecticut to vote, was not yet ready to do more than vest in the general government a power to raise its own revenue;[2] and against the negative of his state alone, New York being divided, the motion was carried by Massachusetts, Pennsylvania, Virginia, and the two Carolinas, on this day aided by Delaware.

Alexander Hamilton of New York next moved that "the rights of suffrage in the national legislature ought to be proportioned to the number of free inhabitants;"[3] and Richard Dobbs Spaight of North Carolina seconded him. But, to escape irritating debates, the resolution was postponed, and Madison, supported by Gouverneur Morris, moved in more general terms, "that the equality of suffrage established by the articles of confederation ought not to prevail in the national legislature; and that an equitable ratio of representation ought to be substituted."[4]

Faithful to his instructions, George Read of Delaware asked that the consideration of the clause might be postponed; as on any change of the rule of suf-

[1] Gilpin, 748; Elliot, 133.
[2] Gilpin, 748; Elliot 133.
[3] Journal, Elliot, i. 151.
[4] Gilpin, 751; Elliot, 134.

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CHAP. I. 1787. May 30. frage it might become the duty of the deputies from his state to withdraw from the convention.[1] "Equality of suffrage," said Madison, "may be reasonable in a federal union of sovereign states; it can find no place in a national government."[2] But, from the spirit of conciliation, the request for delay was granted.

31. The next day Georgia gained the right to vote by the arrival of William Pierce, a Virginian by birth, in the war an aid to Greene, and now a member of congress. The Virginia resolve, that the national legislature should be composed of two branches, passed without debate, and, but for Pennsylvania, unanimously; Hamilton and Robert Yates of New York voting together."[3] Three weeks later, Pennsylvania, which had hesitated only out of forbearance toward its own constitution, gave in its adhesion. The decision, which was in harmony with the undisputed and unchanging conviction of the whole people of the United States, was adopted, partly to check haste in legislation by reciprocal watchfulness, and partly to prevent the fatal conflict which might one day take place between a single legislative body and a single executive.

On the method of electing the two branches, the upholders of the sovereignty of each state contended that the national government ought to seek its agents through the governments of the respective states; others preferred that the members of the first branch should be chosen directly by the people.

"The people," said Sherman,[4] "should have as little

[1] Gilpin, 751; Elliot, 134.
[2] Gilpin, 752; Elliot, 135.
[3] Gilpin, 753; Elliot, 135.
[4] Gilpin, 753; Elliot, 135.

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CHAP. I.

1787. May 31.

to do as may be about the government; they want information and are constantly liable to be misled; the election ought to be by the state legislatures." "The people do not want virtue; but they are the dupes of pretended patriots," added Elbridge Gerry of Massachusetts.[1] To this arraignment of the people by men of New England, Mason of Virginia replied: "The larger branch is to be the grand depository of the democratic principle of the government. We ought to attend to the rights of every class of the people. I have often wondered at the indifference of the superior classes of society to this dictate of humanity and policy."[2] "Without the confidence of the people," said James Wilson of Pennsylvania, "no government, least of all a republican government, can long subsist; nor ought the weight of the state legislatures to be increased by making them the electors of the national legislature."[3] Madison, though for the senate, the executive, and the judiciary he approved of refining popular appointments by successive "filtrations,"[4] held the popular election of one branch of the national legislature indispensable to every plan of free government. This opinion prevailed.

It was agreed unanimously and without debate, that the national legislature should possess the legislative powers of the confederacy; but, to the extension of them to all cases to which the state legislatures were individually incompetent, Charles Pinckney, John Rutledge, and Butler, all the three of South

[1] Gilpin, 753; Elliot, 136.
[2] Gilpin, 754; Elliot, 136.
[3] Gilpin, 755; Elliot, 136.
[4] Gilpin, 756; Elliot, 137.

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CHAP. I. 1787. May 31. Carolina, objected that the vagueness of the language might imperil the powers of the states. But Randolph disclaimed the intention of giving indefinite powers to the national legislature, and declared himself unalterably opposed to such an inroad on the state jurisdictions. Madison was strongly biased in favor of enumerating and defining the powers to be granted, although he could not suppress doubts of its practicability. "But," said he, "a form of government that will provide for the liberty and happiness of the community being the end of our deliberations, all the necessary means for attaining it must, however reluctantly, be submitted to."[1] The clause was adopted by nine states, including New York and New Jersey. Oliver Ellsworth, voting against Sherman, divided Connecticut.

The clauses in the Virginia plan, giving to the national legislature the powers necessary to preserve harmony among the states, to negative all state laws contravening, in the opinion of the national legislature, the articles of union, or, as Benjamin Franklin of Pennsylvania added, "contravening treaties subsisting under the authority of the union," were agreed to without debate or dissent.

Madison struggled to confer on the national legislature the right to negative at its discretion any state law whatever, being of the opinion that a negative of which the rightfulness was unquestioned would strip a local law of every pretence to the character of legality, and thus suppress resistance at its inception. On another day, explaining his motives, he said: "A

June 8.

[1] Gilpin, 760; Elliot, 139.

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negative on state laws is the mildest expedient that can be devised for enforcing a national decree. Should no such precaution be engrafted, the only remedy would be coercion. The negative would render the use of force unnecessary. In a word, this prerogative of the general government is the great pervading principle that must control the centrifugal tendency of the states, which, without it, will continually fly out of their proper orbits, and destroy the order and harmony of the political system."[1] But the convention refused to adopt his counsel. CHAP. I. 1787. June 8.

Lastly: the Virginia plan authorized the exertion of the force of the whole against a delinquent state. Madison, accepting the argument of Mason, expressed a doubt of the practicability, the justice, and the equity of applying force to a collective people. "To use force against a state," he said, "is more like a declaration of war than an infliction of punishment, and would be considered, by the party attacked, a dissolution of all previous contracts. I therefore hope that a national system, with full power to deal directly with individuals, will be framed, and the resource be thus rendered unnecessary." The clause was postponed.[2] May 31.

In this wise and in one day the powers of the legislature which was to be the centre of the government were with common consent established in their outlines. On points essential to union, Yates and Hamilton, New Jersey and Pennsylvania voted together. On the first day of June the convention took into consideration the national executive. The same spirit June 1.

[1] Gilpin, 822, 823; Elliot, 171. [2] Gilpin, 761; Elliot, 140.

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CHAP. I. 1787. June 1.

of conciliation prevailed, but with a chaos of ideas and a shyness in the members to declare their minds.

Should the national executive be one or many?—a question which, from a difference among themselves, the plan of the Virginia delegates had left undecided. Should it be chosen directly by the people? or by electors? or by state legislatures? or by the executives of the states? or by one branch of the national legislature? or by both branches? And, if by both, by joint or concurrent ballot? or by lot? How long should be its term of service? And how far should its re-eligibility be limited? Should it have the sole power of peace and war? Should it have an absolute or a qualified veto on acts of legislation, or none at all? Should its powers be exercised with or without a council? Should it be liable to removal by the legislatures of the states, or by the national legislature? or by the joint action of both? or by impeachment alone?

Here the convention marched and countermarched for want of guides. Progress began to be made on the ascertainment that the members inclined to withhold from the executive the power over war and peace. This being understood, Wilson and Charles Pinckney proposed that the national executive should consist of a single person. A long silence prevailed, broken at last by the chairman asking if he should put the question. Franklin entreated the members first to deliver their sentiments on a point of so great importance. Rutledge joined in the request, and for himself supported Pinckney and Wilson. On the

[1] Gilpin, 762; Elliot, 140.

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other hand, Sherman, controlled by the precedents of the confederacy which appointed and displaced executive officers just as it seemed to them fit, replied: "The legislature are the best judges of the business to be done by the executive, and should be at liberty from time to time to appoint one or more, as experience may dictate."[1] 1787. June 1.

"I do not mean to throw censure on that excellent fabric, the British government," said Randolph; "if we were in a situation to copy it, I do not know that I should be opposed to it. But the fixed genius of the people of America requires a different form of government. The requisites for the executive department,—vigor, despatch, and responsibility,—can be found in three men as well as in one. Unity in the executive is the fœtus of monarchy."[2] "Unity in the executive," retorted Wilson, "will rather be the best safeguard against tyranny. From the extent of this country, nothing but a great confederated republic will do for it." To calm the excitement, Madison led the convention, before choosing between unity or plurality in the executive, to fix the extent of its authority; and the convention agreed to clothe it "with power to carry into effect the national laws and to appoint to offices in cases not otherwise provided for."[3]

On the mode of appointing the executive, Wilson said: "Chimerical as it may appear in theory, I am for an election by the people. Experience in New York and Massachusetts shows that an election of the first magistrate by the people at large is both a con-

[1] Gilpin, 763; Elliot, 140.
[2] Gilpin, 764; Elliot, 141.
[3] Gilpin, 765; Elliot, 141.

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CHAP. I. 1787. June 1. venient and a successful mode. The objects of choice in such cases must be persons whose merits have general notoriety." "I," replied Sherman, "am for its appointment by the national legislature, and for making it absolutely dependent on that body whose will it is to execute. An independence of the executive on the supreme legislature is the very essence of tyranny." Sherman and Wilson were for a period of office of three years and "against the doctrine of rotation, as throwing out of office the men best qualified to execute its duties." Mason asked for seven years at least, but without re-eligibility. "What," inquired Gunning Bedford of Delaware, "will be the situation of the country should the first magistrate elected for seven years be discovered immediately on trial to be incompetent?" He argued for a triennial election, with an ineligibility after three successive elections. The convention, by a vote of five and a half states against four and a half, decided for the period of seven years;[1] and by at least seven states against Connecticut, that the executive should not be twice eligible.[2]

2. How to choose the executive remained the perplexing problem. Wilson, borrowing an idea from the constitution of Maryland, proposed that electors chosen in districts of the several states should meet and elect the executive by ballot, but not from their own body.[3] He deprecated the intervention of the states in its choice.[4] Mason favored the idea of choosing the executive by the people; Rutledge, by the

[1] Gilpin, 767; Elliot, 143.
[2] Gilpin, 768; Elliot, 143.
[3] Gilpin, 779; Elliot, 149.
[4] Gilpin, 767; Elliot, 143.

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national senate.[1] Gerry set in a clear light that the election by the national legislature would keep up a constant intrigue between that legislature and the candidates; nevertheless, Wilson's motion was at that time supported only by Pennsylvania and Maryland; and, from sheer uncertainty what else to do, the convention left the choice of the executive to the national legislature.[2] 1787. June 2.

For relief from a bad selection of the executive, John Dickinson of Delaware, who did not like the plan of impeaching the great officers of state, proposed a removal on the request of a majority of the legislatures of the individual states.[3] Sherman would give that power to the national legislature. "The making the executive the mere creature of the legislature," replied Mason, "is a violation of the fundamental principle of good government."[4]

"The occasion is so important," said Dickinson, "that no man ought to be silent or reserved. A limited monarchy is one of the best governments in the world. Equal blessings have never yet been derived from any of the republican forms. But, though a form the most perfect perhaps in itself be unattainable, we must not despair. Of remedies for the diseases of republics which have flourished for a moment only and then vanished forever, one is the double branch of the legislature, the other the accidental lucky division of this country into distinct states, which some seem desirous to abolish altogether. This division ought to be maintained, and considerable powers to

[1] Gilpin, 768; Elliot, 143.
[2] Gilpin, 770; Elliot, 144.
[3] Gilpin, 776; Elliot, 147.
[4] Gilpin, 776; Elliot, 147.

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CHAP. I. 1787. June 2. be left with the states. This is the ground of my consolation for the future fate of my country. In case of a consolidation of the states into one great republic, we may read its fate in the history of smaller ones. "The point of representation in the national legislature of states of different sizes must end in mutual concession. I hope that each state will retain an equal voice, at least in one branch of the national legislature."[1]

The motion of Dickinson was sustained only by Delaware; and the executive was made removable on "impeachment and conviction of malpractice or neglect of duty."[2] But the advice on the distribution of suffrage in the national legislature sank deep into the minds of his hearers.

Randolph pleaded anew for an executive body of three members, one from each of the three geographical divisions of the country. "That would lead to a constant struggle for local advantages," replied Butler, who had travelled in Holland; and from his own observation he sketched the distraction of the Low Countries from a plurality of military heads.[3] "Executive questions," said Wilson, "have many sides; and of three members no two might agree.[4] All the thirteen states place a single magistrate at the head. Unity in the executive will favor the tranquillity not less than the vigor of the government."[5] Assenting to unity in the executive, Sherman thought a council necessary to make that unity acceptable to the people. "A council," replied Wilson, "oftener covers malprac-

[1] Gilpin, 778; Elliot, 148.
[2] Gilpin, 779; Elliot, 149.
[3] Gilpin, 780; Elliot, 149.
[4] Gilpin, 782; Elliot, 150.
[5] Gilpin, 781; Elliot, 150.

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tices than prevents them."[1] The proposal for a single executive was sustained by seven states against New York, Delaware, and Maryland. In the Virginia delegation there would have been a tie but for Washington.[2] The decision was reached after mature deliberation, and was accepted as final. 1787. June 4.

Wilson and Hamilton desired to trust the executive with an absolute negative on acts of legislation; but this was opposed, though from widely differing motives, by Gerry, Franklin, Sherman, Madison, Butler, Bedford, and Mason,[3] and was unanimously negatived.

When Wilson urged upon the convention the Virginia plan of vesting a limited veto on legislation in a council of revision, composed of the executive and a convenient number of the judiciary, Gerry called to mind that judges had in some states, and with general approbation, set aside laws as being against the constitution; but that from the nature of their office they were unfit to be consulted on the policy of public measures; and, after the example of his own state, he proposed rather to confide the veto power to the executive alone, subject to be overruled by two thirds of each branch. "Judges," said Rufus King of Massachusetts, "should expound the law as it may come before them, free from the bias of having participated in its formation."[4] Gerry's motion was carried by eight states against Connecticut and Maryland.[5]

In a convention composed chiefly of lawyers, the organization of the judiciary engaged eager attention; at the close of a long sitting, the Virginia resolution,

[1] Gilpin, 782; Elliot, 151.
[2] Gilpin, 783; Elliot, 151.
[3] Gilpin, 784–787; Elliot, 151–154.
[4] Gilpin, 783; Elliot, 151.
[5] Gilpin, 790, 791; Elliot, 155.

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CHAP. I. 1787. June 4. that a national judiciary be established, passed without debate and unanimously, with a further clause that the national judiciary should consist of one supreme tribunal and of one or more inferior tribunals.[1]

A night's reflection developed a jealousy of transferring business from the courts of the states to the

5. courts of the union; and on the fifth Rutledge and Sherman insisted that state tribunals ought, in all cases, to decide in the first instance, yet without impairing the right of appeal. Madison replied:[2] "Unless inferior tribunals are dispersed throughout the republic, in many cases with final jurisdiction, appeals will be most oppressively multiplied. A government without a proper executive and judiciary will be the mere trunk of a body, without arms or legs to act or move." The motion to dispense with the inferior national tribunals prevailed; but Dickinson, Wilson, and Madison, marking the distinction between establishing them and giving a discretion to establish them, obtained a great majority for empowering the national legislature to provide for their institution.[3]

13. It was unanimously agreed "that the power of the national judiciary should extend to all cases of national revenue, impeachment of national officers, and questions which involve the national peace or harmony."[4]

6. On the sixth of June, Charles Pinckney, supported by Rutledge, made once more a most earnest effort in favor of electing the first branch of the legislature by

[1] Gilpin, 791; Elliot, 155; and Elliot, i. 160.
[2] Gilpin, 798, 799; Elliot, 159.
[3] Gilpin, 800; Elliot, 160. Compare Elliot, i. 163, 397.
[4] Gilpin, 855; Elliot, 188; Yates in Elliot, i. 409.

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CHAP. I.

1787. June 6.

the legislatures of the states, and not by the people. "Vigorous authority," insisted Wilson, "should flow immediately from the legitimate source of all authority, the people. Representation ought to be the exact transcript of the whole society; it is made necessary only because it is impossible for the people to act collectively."[1] "If it is in view," said Sherman, "to abolish the state governments, the elections ought to be by the people. If they are to be continued, the elections to the national government should be made by them. I am for giving the general government power to legislate and execute within a defined province. The objects of the union are few: defence against foreign danger, internal disputes, and a resort to force; treaties with foreign nations; the regulation of foreign commerce and drawing revenue from it. These, and perhaps a few lesser objects, alone rendered a confederation of the states necessary. All other matters, civil and criminal, will be much better in the hands of the states."[2]

"Under the existing confederacy," said Mason, "congress represent the states, and not the people of the states; their acts operate on the states, not on individuals. In the new plan of government the people will be represented; they ought, therefore, to choose the representatives.[3] Improper elections in many cases are inseparable from republican governments. But compare these with the advantage of this form, in favor of the rights of the people, in favor of human nature!"

[1] Gilpin, 801, 802; Elliot, 160.
[2] Gilpin, 802, 803; Elliot, 161.
[3] Gilpin, 803; Elliot, 161.

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CHAP. I.

1787. June 6. Approving the objects of union which Sherman had enumerated, "I combine with them," said Madison, "the necessity of providing more effectually for the security of private rights and the steady dispensation of justice."[1] And he explained at great length that the safety of a republic requires for its sphere a large extent of territory, with interests so many and so various that the majority could never unite in the pursuit of any one of them. "It is incumbent on us," he said, "to try this remedy, and to frame a republican system on such a scale and in such a form as will control all the evils which have been experienced."[2]

"It is essential," said Dickinson, "that one branch of the legislature should be drawn immediately from the people; and it is expedient that the other should be chosen by the legislatures of the states. This combination of the state governments with the national government is as politic as it is unavoidable."

Pierce spoke for an election of the first branch by the people, of the second by the states; so that the citizens of the states will be represented both individually and collectively.[3]

21. When on the twenty-first the same question was revived in the convention, Charles Cotesworth Pinckney of South Carolina, seconded by Luther Martin of Maryland, adopting a milder form, proposed "that the first branch, instead of being elected by the people, should be elected in such manner as the legislature of each state should direct."[4]

"It is essential to the democratic rights of the com-

[1] Gilpin, 804; Elliot, 162.
[2] Gilpin, 806; Elliot, 163.
[3] Gilpin, 807; Elliot, 163.
[4] Gilpin, 925; Elliot, 223.

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munity," said Hamilton, enouncing a principle which he upheld with unswerving consistency, "that the first branch be directly elected by the people." "The democratic principle," Mason repeated, "must actuate one part of the government. It is the only security for the rights of the people." "An election by the legislature," pleaded Rutledge, "would be a more refining process." "The election of the first branch by the people," said Wilson, "is not the corner-stone only, but the foundation of the fabric."[1] South Carolina, finding herself feebly supported, gave up the struggle. CHAP. I. 1787. June 21.

The Virginia plan intrusted the appointment of the judges to the legislature; Wilson proposed to transfer it to the executive; Madison to the senate; and for the moment the last mode was accepted without dissent.[2] All agreed that their tenure of office should be good behavior, and that their compensation should be safe from diminution during the period of their service. 6.

On the seventh of June Dickinson moved that the members of the second branch, or, as it is now called, the senate, ought to be chosen by the individual legislatures.[3] The motion, without waiving the claim to perfect equality, clearly implied that each state should elect at least one senator. "If each of the small states should be allowed one senator," said Cotesworth Pinckney, "there will be eighty at least." "I have no objection to eighty or twice eighty of them," rejoined Dickinson. "The legislature of a numerous 7.

[1] Gilpin, 926, 927; Elliot, 223, 224. Yates in Elliot, i. 432, 433.

[2] Gilpin, 792, 793, 855; Elliot, 155, 156, 188.

[3] Gilpin, 812; Elliot, 166.

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CHAP. I. 1787. June 7.

people ought to be a numerous body. I wish the senate to bear as strong a likeness as possible to the British house of lords, and to consist of men distinguished for their rank in life and their weight of property. Such characters are more likely to be selected by the state legislatures than in any other mode."[1] "To depart from the proportional representation in the senate," said Madison, "is inadmissible, being evidently unjust. The use of the senate is to consist in its proceeding with more coolness, system, and wisdom than the popular branch. Enlarge their number, and you communicate to them the vices which they are meant to correct. Their weight will be in an inverse ratio to their numbers."[2] Dickinson replied: "The preservation of the states in a certain degree of agency is indispensable. The proposed national system is like the solar system, in which the states are the planets, and they ought to be left to move more freely in their proper orbits."

"The states," answered Wilson, "are in no danger of being devoured by the national government; I wish to keep them from devouring the national government. Their existence is made essential by the great extent of our country. I am for an election of the second branch by the people in large districts, subdividing the districts only for the accommodation of voters."[3] Gerry and Sherman declared themselves in favor of electing the senate by the individual legislatures. From Charles Pinckney came a proposal to divide the states periodically into three classes ac-

[1] Gilpin, 813; Elliot, 166.
[2] Gilpin, 814, 815; Elliot, 167.
[3] Gilpin, 817, 818; Elliot, 168, 169.

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cording to their comparative importance; the first class to have three members, the second two, and the third one member each; but it received no attention. Mason closed the debate: "The state legislatures ought to have some means of defending themselves against encroachments of the national government. And what better means can we provide than to make them a constituent part of the national establishment? No doubt there is danger on both sides; but we have only seen the evils arising on the side of the state governments. Those on the other side remain to be displayed; for congress had not power to carry their acts into execution, as the national government will now have." The vote was then taken, and the choice of the second branch or senate was with one consent intrusted to the individual legislatures.[1] In this way the states as states made their lodgment in the new constitution. CHAP. I. 1787. June 7.

The equality of the small states was next imperilled. On the ninth, David Brearley, the chief justice of New Jersey, vehemently protested against any change of the equal suffrage of the states. To the remark of Randolph, that the states ought to be one nation, Paterson replied: "The idea of a national government as contradistinguished from a federal one never entered into the mind of any of the states. If the states are as states still to continue in union, they must be considered as equals. Thirteen sovereign and independent states can never constitute one nation, and at the same time be states. If we are to be formed into a nation, the states as states must 9.

[1] Gilpin, 821; Elliot, 170. Elliot, i. 165, 399.

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CHAP. I. 1787. June 9. be[1] abolished, and the whole must be thrown into hotchpot, and when an equal division is made there may be fairly an equality of representation. New Jersey will never confederate on the plan before the committee. I would rather submit to a despot than to such a fate. I will not only oppose the plan here, but on my return home will do everything in my power to defeat it there."[2]

11. When, on the eleventh, the committee of the whole was about to take the question, Franklin, ever the peace-maker, reproved the want of coolness and temper in the late debates. "We are sent here," he said, "to consult, not to contend with each other;" and, though he mingled crude proposals with wholesome precepts, he saw the danger of the pass into which they were entering. There were two Northern and four Southern states demanding a representation in some degree proportioned to numbers—Massachusetts, Pennsylvania, Virginia, and the two Carolinas with Georgia, whose delegates, as they contemplated her vast and most fertile territory, indulged in glowing visions of her swift advances. There were two Northern with one Southern state for an equal representation of states—New York, New Jersey, and Delaware. Connecticut stood between the two. It was carried by the six national states and Connecticut against the three confederating states, Maryland being divided, that in the first branch, or house of representatives, of the national legislature the suffrage ought to be according to some equitable ratio.

[1] Paterson MSS.

[2] Gilpin, 831, 832; and compare 870, 902, 903; Elliot, 176, 177, 194, 211.

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CHAP. I.

1787. June 11.

In April, 1783, congress had apportioned the supplies of the states for the common treasury to the whole number of their free inhabitants and three fifths of other persons; in this precedent the equitable ratio for representation in the popular branch was found.[1]

Connecticut then took the lead; and Sherman, acting upon a principle which he had avowed more than ten years before, moved that each state should have one vote in the second branch, or senate. "Everything," he said, "depends on this; the smaller states will never agree to the plan on any other principle than an equality of suffrage in this branch." Ellsworth shored up his colleague; but they rallied only five states against the six which had demanded a proportioned representation.

Finally Wilson and Hamilton proposed for the second branch the same rule of suffrage as for the first; and this, too, was carried by the phalanx of the same six states against the remaining five. So the settlement offered by Wilson, Hamilton, Madison, Rutledge, and others, to the small states, and adopted in the committee of the whole, was: The appointment of the senators among the states according to representative population, except that each state should have at least one.

The convention speeded through the remainder of the Virginia plan. A guarantee to each state of its territory was declined. A republican constitution, the only one suited to the genius of the United States, to the principles on which they had conducted

[1] Gilpin, 843; Elliot, 181.

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CHAP. I. 1787. June 11. their war for independence, to their assumption before the world of the responsibility of demonstrating man's capacity for self-government, was guaranteed to each one of the United States.

The requirement of an oath from the highest state officers to support the articles of union was opposed by Sherman[1] as an intrusion into the state jurisdictions, and supported by Randolph as a necessary precaution. "An oath of fidelity to the states from national officers might as well be required," said Gerry. Martin observed: "If the new oath should conflict with that already taken by state officers, it would be improper; if coincident, it would be superfluous."[2] The clause was retained by the vote of the six national states. By the same vote the new system was referred for consideration and decision to assemblies chosen expressly for the purpose by the people of the several states. The articles of union were thereafter open to "amendment whensoever it should
12. seem necessary." Sherman and Ellsworth wished the members of the popular branch to be chosen annually. "The people of New England," said Gerry, "will never give up annual elections."[3] "We ought," replied Madison, "to consider what is right and necessary in itself for the attainment of a proper government;" and his proposal of a term of three years was adopted for the time; though, to humor the Eastern states, it was afterward changed to two. The ineligibility of members of congress to national offices was limited to one year after their retirement; but on the

[1] Gilpin, 845; Elliot, 182.
[2] Gilpin, 845; Elliot, 183.
[3] Gilpin, 847; Elliot, 184.

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motion of Charles Pinckney the restriction on their re-election was removed, and the power of recalling them, which was plainly inconsistent with their choice by the people, was taken away.[1] The qualification of age was at a later day fixed at twenty-five years for the branch elected by the people. CHAP. I. 1787. June 12.

For senators the qualification of age was at that time fixed at thirty. Pierce would have limited their term of service to three years; Sherman to not more than five; but a great majority held seven years by no means too long.

The resolutions of the committee departed from the original plan of Virginia but rarely, and, for the most part, for the better. Thus amended, it formed a complete outline of a federal republic. The mighty work was finished in thirteen sessions, with little opposition except from the small states, and from them chiefly because they insisted on equality of suffrage in at least one branch of the legislature. 13.

[1] Gilpin, 851; Elliot, 185.

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CHAPTER II.

NEW JERSEY CLAIMS AN EQUAL REPRESENTATION OF THE STATES.

15–19 JUNE, 1787.

CHAP. II. 1787. June.

THE plan of Virginia divested the smaller states of the equality of suffrage, which they had enjoyed from the inception of the union. "See the consequence of pushing things too far," said Dickinson to Madison; the smaller states, though some of their members, like himself and the delegates from Connecticut, wished for a good national government with two branches of the legislature, were compelled, in self-defence, to fall back upon the articles of confederation.[1]

The project which in importance stands next to that of Virginia is the series of propositions of Connecticut. It consisted of nine sections, and in the sessions of the convention received the unanimous support of the Connecticut delegation, particularly of Sherman and Ellsworth. It was framed while they were still contriving amendments of the articles

[1] Gilpin, 863, note; Elliot, 191.

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of the confederation.[1] It gave to the legislature of the United States the power over commerce with foreign nations and between the states in the union, with a revenue from customs and the post-office. The United States were to make laws in all cases which concerned their common interests; but not to interfere with the governments of the states in matters wherein the general welfare of the United States is not affected. The laws of the United States relating to their common interests were to be enforced by the judiciary and executive officers of the respective states. The United States were to institute one supreme tribunal and other necessary tribunals, and to ascertain their respective powers and jurisdiction. The individual states were forbidden to emit bills of credit for a currency, or to make laws for the payment or discharge of debts or contracts in any manner differing from the agreement of the parties, whereby foreigners and the citizens of other states might be affected. The common treasury shall be

[1] Therefore, certainly, before 19 June, and probably soon after the arrival of Sherman in Philadelphia. The Connecticut members were not chosen till Saturday, the twelfth of May. Ellsworth took his seat the twenty-eighth of May, Sherman the thirtieth, and Johnson the second of June. For the plan, see the Life of Roger Sherman by Jeremiah Evarts, in Biography of the Signers, Ed. of 1828, pp. 42–44. It may be that Sherman drew the paper; but one of the articles corresponds with the sixth recommendation of a committee on which Ellsworth served with Randolph in 1781; and is very similar to a proposition made in 1786 by a sub-committee of which Johnson was a member; and another, the sixth, does no more than adopt the report of a committee of which Ellsworth was a member with Hamilton and Madison in 1783. As to the introduction of the Connecticut articles into the constitution, it is hard to say whether Sherman or Ellsworth was the greatest hater of paper money. Compare Gilpin, 1345, 1442; Elliot, 485, 485. For proof of their unity of action, compare their joint letter from New London, 26 September, 1787, to Governor Huntington of Connecticut, in Elliot, i. 491.

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CHAP. II. 1787. June.

supplied by the several states in proportion to the whole number of white and other free citizens and inhabitants and three fifths of all other persons, except Indians not paying taxes, in each state. Should any state neglect to furnish its quota of supplies, the United States might levy and collect the same on the inhabitants of such state. The United States might call forth aid from the people to assist the civil officers in the execution of their laws. The trial for a criminal offence must be by jury, and must take place within the state in which the offence shall have been committed.

The task of leading resistance to the large states fell to New Jersey. Paterson, one of its foremost statesmen, of Scotch-Irish descent, brought from Ireland in infancy, a graduate of Princeton, desired a thoroughly good general government. Cheerful in disposition, playful in manner, and even in temper, he was undisturbed by resentments, and knew how to bring back his friends from a disappointment to a good humor with themselves and with the world.[1] In his present undertaking he was obliged to call around him a group of states agreeing in almost nothing. New York, his strongest ally, acted only from faction. New Jersey itself needed protection for its commerce against New York. Luther Martin could bring the support of Maryland only in the absence of a majority of his colleagues. The people of Connecticut[2] saw the need of a vig-

[1] Dayton to Paterson, 1 Feb., 1801. MS.

[2] Gilpin, 862, 863, Elliot, 191, note, wrongly classes New York and Connecticut together. In conduct and intention the delegates of Connecticut were very unlike Yates and Lansing.

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orous general government, with a legislature in two branches. CHAP. II.

The plan of New Jersey, which Paterson presented on the fifteenth, was a revision of the articles of confederation. It preserved a congress of states in a single body; granted to the United States a revenue from duties, stamps, and the post-office, but nothing more except by requisitions; established a plural executive to be elected and to be removable by congress; and conferred on states' courts original though not final jurisdiction over infractions of United States laws.[1] 1787. June 15.

"The New Jersey system," said John Lansing[2] of New York, "is federal; the Virginia system, national. In the first, the powers flow from the state governments; in the second, they derive authority from the people of the states, and must ultimately annihilate the state governments. We are invested only with power to alter and amend defective parts of the present confederation."[3] 16.

Now the powers granted by Virginia extended to "all further provisions necessary to render the federal constitution adequate to the exigencies of the Union." "Fully adequate," were the still more energetic words of Pennsylvania. New Jersey did not so much as name the articles of confederation; while Connecticut limited the discussions of its delegates only by "the general principles of republican government."[4]

[1] Paterson MSS.; Elliot, i. 177; Gilpin, 868–867; Elliot, 191, 193.

[2] Yates in Elliot, i. 411; compared with Gilpin, 867; Elliot, 193; Paterson MSS.

[3] Gilpin, 867; Elliot, 193; Yates in Elliot, 411.

[4] Journals of Congress, iv. Appendix.

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CHAP. II. 1787. June 16.

The states, Lansing further insisted, would not ratify a novel scheme, while they would readily approve an augmentation of the familiar authority of congress.[1]

Paterson next spoke with the skill of a veteran advocate, setting forth, "not his own opinions," as he frankly and repeatedly avowed,[2] but "the views of those who sent him."

"The system of government for the union which I have proposed accords with our own powers and with the sentiments of the people.[3] If the subsisting confederation is so radically defective as not to admit of amendment, let us report its insufficiency and wait for enlarged powers. If no confederation at present exists, all the states stand on the footing of equal sovereignty; and all must concur before any one can be bound.[4] If a federal compact exists, an equal sovereignty is its basis; and the dissent of one state renders every proposed amendment null. The confederation is in the nature of a compact; and can any state, unless by the consent of the whole, either in politics or law, withdraw its powers? The larger states contribute most, but they have more to protect; a rich state and a poor state are in the same relation as a rich individual and a poor one: the liberty of the latter must be preserved. Two branches are not necessary in the supreme council of the states; the representatives from the several states are checks upon each other. Give congress the same

[1] Gilpin, 868, 869; Elliot, 194.

[2] Paterson MSS. The informants of England name Governor Livingston as the author.

[3] Gilpin. 869; Elliot, 194; Yates in Elliot, i. 412.

[4] Gilpin, 869; Elliot, 194.

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powers that are intended for the two branches, and I apprehend they will act with more energy and wisdom than the latter. Congress is the sun of our political system."[1]

Wilson refuted Paterson by contrasting the two plans.[2] "The congress of the confederacy," he continued, "is a single legislature. Theory and practice both proclaim that in a single house there is danger of a legislative despotism."[3] One of the Pinckneys added: "The whole case comes to this: give New Jersey an equal vote, and she will dismiss her scruples and concur in the national system."[4]

"When the salvation of the republic is at stake," said Randolph, "it would be treason to our trust not to propose what we find necessary.[5] The insufficiency of the federal plan has been fully displayed by trial. The end of a general government can be attained only by coercion, or by real legislation. Coercion is impracticable, expensive, and cruel, and trains up instruments for the service of ambition. We must resort to a national legislation over individuals. To vest such power in the congress of the confederation would be blending the legislative with the executive. Elected by the legislatures who retain even a power of recall, they are a mere diplomatic body, with no will of their own, and always obsequious to the states who are ever encroaching on the authority of the United States.[6] A national government, properly

[1] Paterson MSS.
[2] Gilpin, 871; Elliot, 195; Elliot, i. 414; Paterson MSS.
[3] Gilpin, 874; Elliot, 196.
[4] Gilpin, 875; Yates in Elliot, i. 415; Elliot, 197; Paterson MSS.
[5] Gilpin, 876; Elliot, 197; Paterson MSS.
[6] Gilpin, 876, 877; Elliot, 198.

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CHAP. II. constituted, will alone answer the purpose; and this is the only moment when it can be established."[1]

1787. June 18. On the morning of the eighteenth, Dickinson, to conciliate the conflicting parties, induced the convention to proceed through a revision of the articles of the confederation to a government of the United States, adequate to the exigencies, preservation, and prosperity of the union.[2]

Hamilton could no longer remain silent. Embarrassed by the complete antagonism of both his colleagues, he insisted that even the New York delegates need not doubt the ample extent of their powers, and under them the right to the free exercise of their judgment. The convention could only propose and recommend; to ratify or reject remained "in the states."[3]

Feeling that another ineffectual effort "would beget despair," he spoke for "a solid plan without regard to temporary opinions." "Our choice," he said, "is to engraft powers on the present confederation, or to form a new government with complete sovereignty."[4] He set forth the vital defects of the confederacy, and that it could not be amended except by investing it with most important powers. To do so would establish a general government in one hand without checks; a sovereignty of the worst kind, the sovereignty of a single body. This is a conclusive objection to the Jersey plan.[5]

"I have great doubts," he continued, "whether a

[1] Yates in Elliot, i. 417; Gilpin, 877–879; Elliot, 198; Paterson MSS.

[2] Gilpin, 878; Elliot, 198.

[3] Yates in Elliot, i. 418.

[4] Hamilton's Works, ii. 410.

[5] Hamilton's Works, ii. 412; Yates in Elliot, i. 420, 421.

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national government on the Virginia plan can be effectual.[1] Gentlemen say we need to be rescued from the democracy. But what are the means proposed? A democratic assembly is to be checked by a democratic senate, and both these by a democratic chief magistrate.[2] The Virginia plan is but pork still with a little change of the sauce.[3] It will prove inefficient, because the means will not be equal to the object.[4]

"The general government must not only have a strong soul, but strong organs by which that soul is to operate.[5] I despair that a republican form of government can remove the difficulties; I would hold it, however, unwise to change it.[6] The best form of government, not attainable by us, but the model to which we should approach as near as possible,[7] is the British constitution,[8] praised by Necker as 'the only government which unites public strength with individual security.'[9] Its house of lords is a most noble institution. It forms a permanent barrier against every pernicious innovation, whether attempted on the part of the crown or of the commons.[10]

"It seems to be admitted that no good executive can be established upon republican principles.[11] The English model is the only good one. The British executive is placed above temptation, and can have no interests distinct from the public welfare.[12] The

[1] Yates in Elliot, i. 417.
[2] Hamilton, ii. 415.
[3] Yates in Elliot, i. 423; Gilpin, 893, note; Elliot, 205.
[4] Hamilton, ii. 415.
[5] Hamilton, ii. 413.
[6] Yates in Elliot, i. 421.
[7] Hamilton, ii. 413.
[8] Yates in Elliot, i. 421; Hamilton, ii. 413.
[9] Gilpin, 884–6; Elliot, 202.
[10] Gilpin, 886, 887; Elliot, 203.
[11] Gilpin, 887; Elliot, 203.
[12] Yates in Elliot, i. 422.

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CHAP. II. 1787. June 18.

inference from these observations is, that, to obtain stability and permanency, we ought to go to the full length that republican principles will admit.[1] And the government will be republican so long as all officers are appointed by the people, or by a process of election originating with the people."

Hamilton then read and commented on his sketch of a constitution for the United States. It planted no one branch of the general government on the states; but, by methods even more national than that of the Virginia plan, derived them all from the people.

The assembly, which was to be the corner-stone of the edifice, was to consist of persons elected directly by the people for three years. It was to be checked by a senate elected by electors chosen by the people,[2] and holding office during good behavior. The supreme executive, whose term of office was to be good behavior, was to be elected by electors, chosen by electors, chosen by the people. "It may be said," these were his words, "this constitutes an elective monarchy; but by making the executive subject to impeachment the term monarchy cannot apply."[3] The courts of the United States were so instituted as to place the general government above the state governments in all matters of general concern.[4] To prevent the states from passing laws contrary to the constitution or laws of the United States, the executive of each state was to be appointed by the gen-

[1] Gilpin, 888; Elliot, 203; Yates in Elliot, i. 422.

[2] I think Hamilton meant the choice of electors to be made by the landholders; see his fuller plan, given to Madison near the close of the convention. The senate of New York was so chosen.

[3] Yates in Elliot, i. 422.

[4] Ibid, 423.

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eral government with a negative on all state legislation. CHAP. II.

Hamilton spoke, not to refer a proposition to the committee, but only to present his own ideas, and to indicate the amendments which he might offer to the Virginia plan. He saw evils operating in the states which must soon cure the people of their fondness for democracies, and unshackle them from their prejudices; so that they would be ready to go as far at least as he had suggested.[1] But for the moment he held it the duty of the convention to balance inconveniences and dangers, and choose that which seemed to have the fewest objections.[2] 1787. June 18.

Hamilton "was praised by everybody, but supported by none."[3] It was not the good words for the monarchy of Great Britain that estranged his hearers. Hamilton did not go far beyond the language of Randolph,[4] or Dickinson,[5] or Gerry,[6] or Charles Pinckney.[7] The attachment to monarchy in the United States had not been consumed by volcanic fires; it had disappeared because there was nothing left in them to keep it alive, and the nation imperceptibly and without bitterness outgrew its old habits of thought. Gratitude for the revolution of 1688 still threw a halo round the house of lords. But Hamilton, finding a home in the United States only after his mind was near maturity, did not cherish toward the states the feeling of those, who were born and bred on the soil and received into their affections

[1] Gilpin, 890; Elliot, 204.
[2] Hamilton, ii. 415.
[3] Yates in Elliot, i. 431.
[4] Gilpin, 768; Elliot, 141.
[5] Gilpin, 778; Elliot, 148.
[6] Yates in Elliot, i. 408.
[7] Gilpin, 949; Elliot, 285.

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CHAP. II. 1787. June 19.

the thought and experience of the preceding generation. His speech called forth from many sides the liveliest defence of the rights of the states.

On the nineteenth the convention in committee rejected the milder motion of Dickinson; and after an exhaustive analysis by Madison[1] of the defects in the New Jersey plan, they reported the amended plan of Virginia by the vote of the six national states, aided by the vote of Connecticut.[2]

[1] Gilpin, 893; Elliot, 206.

[2] Gilpin, 904; Elliot, 212; Yates in Elliot, i. 425.

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CHAPTER III.

THE CONNECTICUT COMPROMISE.

1787. June 19.

THE convention, which had shown itself so resolute for consolidating the union, next bethought itself of home rule. In reply to what had fallen from Hamilton, Wilson said: "I am for a national government, but not one that will swallow up the state governments; these are absolutely necessary for purposes which the national government cannot reach."[1]

"I did not intend yesterday," exclaimed Hamilton, "a total extinguishment of state governments; but that a national government must have indefinite sovereignty; for if it were limited at all, the rivalship of the states would gradually subvert it.[2] The states must retain subordinate jurisdictions."[3] "If the states," said King, "retain some portion of their sovereignty, they have certainly divested themselves of essential portions of it. If, in some respects, they form a confederacy, in others they form a nation."

Martin held that the separation from Great Britain placed the thirteen states in a state of nature toward

[1] Gilpin, 904; Elliot, 212.
[2] Gilpin, 905; Elliot, 212.
[3] Yates in Elliot, i. 426.

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CHAP. III. 1787. June 19.

each other.[1] This Wilson denied, saying: "In the declaration of independence the united colonies were declared to be free and independent states, independent, not individually, but unitedly."[2]

Connecticut, which was in all sincerity partly federal and partly national, was now compelled to take the lead. As a state she was the most homogeneous and the most fixed in the character of her consociate churches and her complete system of home government. Her delegation to the convention was thrice remarkable: they had precedence in age; in experience, from 1776 to 1786 on committees to frame or amend a constitution for the country; and in illustrating the force of religion in human life.

Roger Sherman was a unique man. No one in the convention had had so large experience in legislating for the United States. Next to Franklin the oldest man in the convention, like Franklin he had had no education but in the common school of his birthplace hard by Boston; and as the one learned the trade of a tallow-chandler, so the other had been apprenticed to a shoemaker.

Left at nineteen an orphan on the father's side, he ministered to his mother during her long life; and having suffered from the want of a liberal education, he provided it for his younger brothers. Resolved to conquer poverty, at the age of two-and-twenty he wrapped himself in his own manliness, and bearing with him the tools of his trade, he migrated on foot to New Milford, in Connecticut, where he gained a living by his craft or by trade, until in Decem-

[1] Gilpin, 906, 907; Elliot, 213. [2] Gilpin, 907; Elliot, 213.

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ber, 1754, after careful study, he was admitted to the bar. CHAP. III.

There was in him kind-heartedness and industry, penetration and close reasoning, an unclouded intellect, superiority to passion, intrepid patriotism, solid judgment, and a directness which went straight to its end; so that the country people among whom he lived, first at New Milford, and then at New Haven, gave him every possible sign of their confidence. The church made him its deacon; Yale College its treasurer; New Haven its representative, and when it became a city, he was its first mayor, and remained so during life. For nineteen years he was annually chosen one of the twelve assistants, or upper house of the legislature; and for twenty-three years a judge of the court of common pleas, or of the superior court. 1787. June 19.

A plurality of offices being then allowed, Sherman was sent to the first congress in 1774, and to every other congress to the last hour of his life, except when excluded by the fundamental law of rotation. In congress he served on most of the important committees, the board of war, the board of the marine, the board of finance. He signed the declaration of 1774, which some writers regard as the date of our nationality; was of the committee to write, and was a signer of the declaration of independence; was of the committee to frame the articles of the confederation, and a signer of that instrument. No one is known to have complained of his filling too many offices, or to have found fault with the manner in which he filled them. In the convention he never made long

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CHAP. III. 1787. June 19.

speeches, but would intuitively seize on the turning-point of a question, and present it in terse language which showed his own opinion and the strength on which it rested.

By the side of Sherman stood William Samuel Johnson, then sixty years of age. He took his first degree at Yale, his second, after a few months' further study, at Harvard; became a representative in the Connecticut assembly; was a delegate to the stamp act congress of 1765, and assisted in writing its address to the king. From 1766 to 1776 he was chosen one of the twelve assistants and one of the judges of the superior court, even while he acted as the able and faithful agent of his state in England, where Oxford made him a doctor of civil laws. He was sent by Connecticut on a peace mission to Gage at Boston; but from the war for independence he kept aloof. His state, nevertheless, appointed him its leading counsel in its territorial disputes with Pennsylvania. A delegate to the fifth congress and the sixth, he acted in 1786 on a grand committee and its sub-committee for reforming the federal government. He had just been unanimously chosen president of Columbia college. His calm and conservative character made him tardy in coming up to a new position, so that he had even opposed the call of the federal convention.[1] He was of good-humor, composedness, and candor, and he knew how to conciliate and to convince.

The third member of the Connecticut delegation was Oliver Ellsworth, whom we have seen on the

[1] Gale to Johnson, 19 April, 1787. MS. Gilpin, 589; Elliot, 96.

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committee of 1781 for amending the constitution, and on the committee of 1783 for addressing the states in behalf of further reforms. A native of Connecticut, he was at Yale for two years, and in 1766, after two years more of study, graduated in the college of New Jersey, where Luther Martin was his classmate. Of a robust habit of mind, he was full of energy and by nature hopeful; devoid of sentimentality and safe against the seductions of feeling or the delusions of imagination, he was always self-possessed. Free from rancor and superior to flattery, he could neither be intimidated nor cajoled. His mind advanced cautiously, but with great moving force. Knowing what he needed, he could not be turned from its pursuit; obtaining it, he never wrangled for more. He had been the attorney of his own state, a member of its assembly, one of its delegates in congress, a colleague of Sherman in its superior court; and now, at the age of two-and-forty, rich in experience, he becomes one of the chief workmen in framing the federal constitution. On the twentieth, he put forth all his strength to obtain the equal representation of the states in the senate. CHAP. III. 1787. June 19. 20.

By Paterson, in his notes for a New Jersey plan, the proposed new government was named "the federal government of the United States;" by Dickinson, in his resolution, "the government of the United States." In the Virginia plan it was described as "national" nineteen times, and in the report from the convention in committee of the whole to the house, twenty-six times. Ellsworth, who then and ever after did not scruple to use the word "national," moved to substitute in

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CHAP. III. 1787. June 20.

the amended Virginia plan the phrase of Dickinson as the proper title.[1] To avoid alarm, the friends to the national plan unhesitatingly accepted the colorless change.[2] Lansing then moved "that the powers of legislation ought to be vested in the United States in congress." He dwelt again on the want of power in the convention, the probable disapprobation of their constituents, the consequent dissolution of the union, the inability of a general government to pervade the whole continent, the danger of complicating the British model of government with state governments on principles which would gradually destroy the one or the other.

Mason protested against a renewed agitation of the question between the two plans, and against the objection of a want of ample powers in the convention; with impassioned wisdom, he continued:

"On two points the American mind is well settled: an attachment to republican government, and an attachment to more than one branch in the legislature. The general accord of their constitutions in both these circumstances must either have been a miracle, or must have resulted from the genius of the people. Congress is the only single legislature not chosen by the people themselves, and in consequence they have been constantly averse to giving it further powers. They never will, they never can, intrust their dearest rights and liberties to one body of men not chosen by them, and yet invested with the sword and the purse; a conclave, transacting their business in secret and guided in many of their acts by factions and

[1] Gilpin, 908, 909; Elliot, 214. [2] Martin in Elliot, i. 362.

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party spirit. It is acknowledged by the author of the New Jersey plan that it cannot be enforced without military coercion. The most jarring elements of nature, fire and water, are not more incompatible than such a mixture of civil liberty and military execution. CHAP. III. 1787. June 20.

"Notwithstanding my solicitude to establish a national government, I never will agree to abolish the state governments, or render them absolutely insignificant. They are as necessary as the general government, and I shall be equally careful to preserve them. I am aware of the difficulty of drawing the line between the two, but hope it is not insurmountable. That the one government will be productive of disputes and jealousies against the other, I believe; but it will produce mutual safety. The convention cannot make a faultless government; but I will trust posterity to mend its defects."[1]

The day ended in a definitive refusal to take up the proposition of Lansing; the six national states standing together against the three federal ones and Connecticut, Maryland being divided. The four southernmost states aimed at no selfish advantages, when in this hour of extreme danger they came to the rescue of the union. Moreover, the people of Maryland were by a large majority on the side of the national states, and the votes of Connecticut and Delaware were given only to pave the way to an equal vote in the senate.

Weary of supporting the New Jersey plan, Sherman[2] pleaded for two houses of the national legisla-

[1] Gilpin, 912–915; Elliot, 216, 217; Yates in Elliot, i. 428, 429.

[2] Gilpin, 918; Elliot, 219.

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CHAP. III.

ture and an equal vote of the states in one of them. On the next morning Johnson[1] took up the theme. Avoiding every appearance of dictation, he invited the convention to harmonize the individuality of the states as proposed by New Jersey with the general sovereignty and jurisdiction of the Virginia plan. He wished it to be well considered, whether the portion of sovereignty which was to remain with the states could be preserved without allowing them in the second branch of the national legislature a distinct and equal vote.

1787. June 21.

The six national states, re-enforced by Connecticut, then resolved[2] that the general legislature should consist of two branches. Upon this decision, which was carried by more than two states to one, the New Jersey plan fell hopelessly to the ground.

25. It was in the course of these debates that Wilson said: "When I consider the amazing extent of country, the immense population which is to fill it, the influence which the government we are to form will have, not only on the present generation of our people and their multiplied posterity, but on the whole globe, I am lost in the magnitude of the object.[3] We are laying the foundation of a building in which millions are interested, and which is to last for ages.[4] In laying one stone amiss we may injure the superstructure; and what will be the consequence if the corner-stone should be loosely placed? A citizen of America is a citizen of the general government, and is

[1] Gilpin, 920; Elliot, 220; Yates in Elliot, i. 431.
[2] Gilpin, 925; Elliot, 223; i. 184; Yates in Elliot, i. 432.
[3] Gilpin, 956; Elliot, 239.
[4] Yates in Elliot, i. 446.

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a citizen of the particular state in which he may reside.[1] The general government is meant for them in the first capacity; the state governments in the second. Both governments are derived from the people, both meant for the people; both, therefore, ought to be regulated on the same principles.[2] In forming the general government we must forget our local habits and attachments, lay aside our state connections, and act for the general good of the whole.[3] The general government is not an assemblage of states, but of individuals, for certain political purposes; it is not meant for the states, but for the individuals composing them; the individuals, therefore, not the states, ought to be represented in it."[4] He persisted to the last in demanding that the senate should be elected by electors chosen by the people.

CHAP. III. 1787. June 25.

Ellsworth replied: "Whether the member of the senate be appointed by the people or by the legislature, he will be a citizen of the state he is to represent. Every state has its particular views and prejudices, which will find their way into the general council, through whatever channel they may flow.[5] The state legislatures are more competent to make a judicious choice than the people at large. Without the existence and co-operation of the states, a republican government cannot be supported over so great an extent of country. We know that the people of the states are strongly attached to their own constitutions. If you hold up a system of general government, destructive of their constitutional rights, they

[1] Yates in Elliot, i. 445, 446.
[2] Gilpin, 956; Elliot, 239.
[3] Yates in Elliot, i. 446.
[4] Gilpin, 957; Elliot, 239.
[5] Ibid.

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CHAP. III. 1787.

will oppose it. The only chance we have to support a general government is to graft it on the state governments."[1]

June 25. That the members of the second branch should be chosen by the individual legislatures, which in the committee had been unanimously accepted, was then affirmed in convention by all the states except Pennsylvania and Virginia, which looked upon this mode of choice as the stepping-stone to an equal representation.[2]

For the term of office of the senators, who, as all agreed, were to go out in classes, Randolph proposed seven years; Cotesworth Pinckney, four; Gorham and Wilson, six with biennial rotation. Read desired the tenure of good behavior, but hardly finding a second,[3] moved for a term of nine years as the

26. longest which had a chance for support.

Madison came to his aid. "The second branch, as a limited number of citizens, respectable for wisdom and virtue, will be watched by and will keep watch over the representatives of the people; it will seasonably interpose between impetuous counsels; and will guard the minority who are placed above indigence against the agrarian attempts of the ever-increasing class who labor under all the hardships of life, and secretly sigh for a more equal distribution of its blessings. The longer the members of the senate continue in office, the better will these objects be answered. The term of nine years can threaten no real danger."[4]

[1] Yates in Elliot, i. 446, 447.

[2] Gilpin, 959; Elliot, 240; Yates in Elliot, i. 447.

[3] Compare Gilpin, 960, or Elliot, 241, with Yates in Elliot, i. 448.

[4] Gilpin, 964; Elliot, 242, 243; Yates in Elliot, i. 450.

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Sherman replied: "The more permanency a government has, the worse, if it be a bad one. I shall be content with six years for the senate; but four will be quite sufficient."[1] CHAP. III. 1787. June 26.

"We are now to decide the fate of republican government," said Hamilton; "if we do not give to that form due stability, it will be disgraced and lost among ourselves, disgraced and lost to mankind forever.[2] I acknowledge I do not think favorably of republican government; but I address my remarks to those who do, in order to prevail on them to tone their government as high as possible. I profess myself as zealous an advocate for liberty as any man whatever; and trust I shall be as willing a martyr to it, though I differ as to the form in which it is most eligible. Real liberty is neither found in despotism nor in the extremes of democracy, but in moderate governments.[3] Those who mean to form a solid republic ought to proceed to the confines of another government. If we incline too much to democracy, we shall soon shoot into a monarchy." The term of nine years received only the votes of Pennsylvania, Delaware, and Virginia; and that for six years, with the biennial renewal of one third of its members, was carried by the voice of seven states against four.[4]

On the twenty-seventh, Rutledge brought the convention to consider the rule of suffrage in the two branches of the national legislature. For the rest of the day, and part of the next, Martin vehemently de- 27.

[1] Gilpin, 965; Elliot, 243; Yates in Elliot, i. 450.
[2] Yates in Elliot, i. 450.
[3] Gilpin, 965, 966; Elliot, 244.
[4] Gilpin, 969; Elliot, 245; i. 451.

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CHAP. III. 1787. June 28.

nounced any general government that could reach individuals, and intimated plainly that Clinton of New York would surely prevent its adoption in that state. Lansing renewed the proposal to vote by states in the first branch of the legislature. Madison summed up a most elaborate statement by saying: "The two extremes before us are, a perfect separation, and a perfect incorporation of the thirteen states. In the first case, they will be independent nations, subject only to the law of nations; in the last, they will be mere counties of one entire republic, subject to one common law. In the first, the smaller states will have everything to fear from the larger; in the last, nothing. Their true policy, therefore, lies in promoting that form of government which will most approximate the states to the condition of counties."[1] Johnson and Sherman and Ellsworth, Paterson and Dickinson, even at the risk of union, opposed King, the most eloquent orator, Wilson, the most learned civilian, and Madison, the most careful statesman, of the convention. It was in vain for the smaller states to say they intended no injustice, and equally in vain for Madison to plead that the large states, from differing customs, religion, and interests, could never unite in perilous combinations. In the great diversity of sentiment, Johnson was saddened by anxiety for the result;[2] and at a later day Martin reported that the convention was "on the verge of dissolution, scarce held together by the strength of a hair."[3]

To restore calm, Franklin, just as the house was

[1] Gilpin, 982; Elliot, 252.

[2] William Samuel Johnson to his son, Philadelphia, 27 June, 1787. MS.

[3] Elliot, i. 358.

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about to adjourn, proposed that the convention should be opened every morning by prayer. Having present in his mind his own marvellous career from the mocking skepticism of his boyhood, he said: "The longer I live, the more convincing proofs I see that God governs in the affairs of men. I firmly believe that 'except the Lord build the house, they labor in vain that build it.' Without his concurring aid, we shall be divided by our little local interests, succeed no better than the builders of Babel, and become a reproach and by-word to future ages. What is worse, mankind may hereafter, from this unfortunate instance, despair of establishing government by human wisdom, and leave it to chance and war."[1] The motion was avoided by adjournment. CHAP. III. 1787. June 28.

The concurring aid which Franklin invoked implied a purification from the dominion of selfish interests. In the next meeting the members were less absorbed by inferior motives.[2] The debate was opened by Johnson. "A state," he said, "exists as a political society, and it exists as a district of individual citizens. The aristocratic and other interests, and the interests of the states, must be armed with some power of self-defence. In one branch of the general government, the people ought to be represented; in the other, the states."[3] Gorham brought together arguments for union alike from the point of view of small and of large states; and his last word was: "A union of the states is necessary to their happiness, and a firm general government is necessary to their 29.

[1] Gilpin, 985; Elliot, 253, 254.
[2] Walter Scott's Heart of Mid-lothian, vol. i., chap. xiv.
[3] Gilpin, 987; Elliot, 255.

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CHAP. III. 1787. June 29.

union. I will stay here as long as any state will remain, in order to agree on some plan that can be recommended to the people."[1]

"I do not despair," said Ellsworth; "I still trust that some good plan of government will be devised and adopted."

"If this point of representation is once well fixed," said Madison, "we shall come nearer to one another in sentiment.[2] The necessity will then be discovered of circumscribing more effectually the state governments, and enlarging the bounds of the general government. There is a gradation from the smallest corporation with the most limited powers to the largest empire with the most perfect sovereignty.[3] The states never possessed the essential rights of sovereignty; these were always vested in congress. Voting as states in congress is no evidence of sovereignty. The state of Maryland voted by counties. Did this make the counties sovereign? The states, at present, are only great corporations, having the power of making by-laws not contradictory to the general confederation.[4] The proposed government will have powers far beyond those exercised by the British parliament when the states were part of the British empire.

"The mixed nature of the government ought to be kept in view; but the exercise of an equal voice by unequal portions of the people is confessedly unjust, and would infuse mortality into the constitution which we wish to last forever. A total separation of the states from each other or partial confederacies

[1] Gilpin, 989; Elliot, 255.
[2] Elliot, i. 461.
[3] Gilpin, 990; Elliot, 256.
[4] Yates in Elliot, i. 461.

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would alike be truly deplorable; and those who may be accessory to either can never be forgiven by their country, nor by themselves."[1] CHAP. III. 1787. June 29.

"In all the states," said Hamilton, "the rights of individuals with regard to suffrage are modified by qualifications of property. In like manner states may modify their right of suffrage, the larger exercising a larger, the smaller a smaller share of it. Will the people of Delaware be less free if each citizen has an equal vote with each citizen of Pennsylvania? The contest is for power, not for liberty.

"No government can give us happiness at home which has not the strength to make us respectable abroad. This is the critical moment for forming such a government. As yet we retain the habits of union. We are weak, and sensible of our weakness. Our people are disposed to have a good government;[2] but henceforward the motives will become feebler and the difficulties greater. It is a miracle that we are now here, exercising free deliberation; it would be madness to trust to future miracles.[3] We must therefore improve the opportunity, and render the present system as perfect as possible. The good sense of the people, and, above all, the necessity of their affairs, will induce them to adopt it."[4]

It was then decided, by the six national states to four, Maryland being divided, that the rule of suffrage in the first branch ought to bear proportion to the population of the several states. A reversal of this decision was never attempted.

[1] Gilpin, 990, 992; Elliot, 256, 257; Yates in Elliot, i. 462.
[2] Yates in Elliot, i. 463.
[3] Gilpin, 995; Elliot, 259.
[4] Yates in Elliot, i. 463, 464.

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CHAP. III.

1787. June 29. "We are partly national, partly federal," said Ellsworth, and he moved that in the second branch the vote should be taken by states.[1] "I am not sorry that the vote just passed has determined against this rule in the first branch; I hope it will become a ground of compromise with regard to the second. On this middle ground, and on no other, can a compromise take place. If the great states refuse this plan, we shall be forever separated.

"In the hour of common danger we united as equals; is it just to depart from this principle now, when the danger is over? The existing confederation is founded on the equality of the states in the article of suffrage, and is declared to be perpetual.[2] Is it meant to pay no regard to this plighted faith?[3] We then associated as free and independent states. To perpetuate that independence, I wish to establish a national legislature, executive, and judiciary; for under these we shall preserve peace and harmony."[4]

Abraham Baldwin, a native of Connecticut, a graduate of Yale college, for four years one of its tutors, a recent emigrant to Georgia, from which state he was now a deputy, stepped forth to the relief of Ellsworth, saying: "The second branch ought to be the representation of property,[5] and ought not to be elected as the first."[6]

30. "If a minority will have their own will, or separate the union," said Wilson, "let it be done. I cannot consent that one fourth shall control the power of three fourths. The Connecticut proposal

[1] Yates in Elliot, i. 464.
[2] Ibid., 465.
[3] Gilpin, 998; Elliot, 260.
[4] Yates in Elliot, i. 465.
[5] Gilpin, 998; Elliot, 260.
[6] Yates in Elliot, i. 465.

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CHAP. III.

1787. June 30.

removes only a part of the objection. No liberty can be obtained without the state governments; but on this question depend the essential rights of the general government and of the people."[1]

Ellsworth replied: "No salutary measure has been lost for want of a majority of the states to favor it.[2] If the larger states seek security, they have it fully in the first branch of the general government. But are the lesser states equally secure? We are razing the foundation of the building, when we need only repair the roof.[3] And let it be remembered that these remarks are not the result of partial or local views. In importance, the state I represent holds a middle rank."[4]

"If there was real danger to the smaller states," said Madison, "I would give them defensive weapons. But there is none. The great danger to our general government is, that the southern and northern interests of the continent are opposed to each other, not from their difference of size, but from climate, and principally from the effects of their having or not having slaves.[5] Look to the votes in congress; most of them stand divided by the geography of the country, not by the size of the states.[6] Defensive power ought to be given, not between the large and small states, but between the northern and southern. Casting about in my mind for some expedient that will answer this purpose, it has occurred that the states should be represented in one branch according to the

[1] Yates in Elliot, i. 466, 467.
[2] Gilpin, 1003; Elliot, 263.
[3] Gilpin, 1003; Elliot, 263; Yates in Elliot, i. 468.
[4] Gilpin, 1004; Elliot, 264.
[5] Gilpin, 1006; Elliot, 264.
[6] Yates in Elliot, i. 466. The date in Madison is 30 June.

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CHAP. III. 1787. June 30.

number of free inhabitants only; and in the other according to the whole number, counting the slaves as free. The southern scale would have the advantage in one house, and the northern in another."[1] By this willingness to recede from the strict claim to representation in proportion to population for the sake of protecting slavery, Madison stepped from firm ground. The argument of Ellsworth drawn from the faith plighted to the smaller states in the existing federal compact, he answered only by taunts: "The party claiming from others an adherence to a common engagement ought at least to be itself guiltless of its violation. Of all the states, Connecticut is perhaps least able to urge this plea."[2]

Fixing his eyes on Washington, Ellsworth rejoined: "To you I can with confidence appeal for the great exertions of my state during the war in supplying both men and money.[3] The muster rolls will show that she had more troops in the field than even the state of Virginia.[4] We strained every nerve to raise them; and we spared neither money nor exertions to complete our quotas. This extraordinary exertion has greatly impoverished us, and has accumulated our state debts; but we defy any gentleman to show that we ever refused a federal requisition. If she has proved delinquent through inability only, it is not more than others have been without the same excuse. It is the ardent wish of the state to strengthen the federal government."[5]

Davie of North Carolina, breaking the phalanx of

[1] Gilpin, 1006; Elliot, 264, 265.
[2] Gilpin, 1005; Elliot, 264.
[3] Gilpin, 1007; Elliot, 265.
[4] Yates in Elliot, i. 469.
[5] Ibid., i. 469, 470.

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national states, preferred the proposition of Ellsworth to the proportional representation, which would in time make the senate a multitudinous body.[1] Connecticut had won the day. CHAP. III. 1787. June 30.

Startled by the appearance of defeat, Wilson hastily offered to the smallest states one senator, to the others one for every hundred thousand souls. This expedient Franklin brushed aside, saying: "On a proportional representation the small states contend that their liberties will be in danger; with an equality of votes, the large states say their money will be in danger. A joiner, when he wants to fit two boards, takes a little from both."[2] And he suggested for the several states a like number of delegates to the senate, with proportionate votes on financial subjects, equal votes on questions affecting the rights of the states.

King inveighed against the "phantom of state sovereignty:" "If the adherence to an equality of votes is unalterable, we are cut asunder already. My mind is prepared for every event, rather than to sit down under a government which must be as short-lived as it would be unjust."[3]

Dayton replied: "Assertion for proof and terror for argument, however eloquently spoken, will have no effect. It should have been shown that the evils we have experienced proceeded from the equality of representation."

"The plan in its present shape," said Madison, "makes the senate absolutely dependent on the

[1] Gilpin, 1007; Elliot, 265, 266; Yates in Elliot, i. 470; Paterson MS.

[2] Gilpin, 1009; Elliot, 266; Yates in Elliot, i. 471.

[3] Gilpin, 1010, 1011; Elliot, 266, 267.

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CHAP. III. 1787. June 30.

states; it is, therefore, only another edition of the old confederation, and can never answer. Still I would preserve the state rights as carefully as the trial by jury."[1] Bedford scoffed at Georgia, proud of her future greatness; at South Carolina, puffed up with wealth and negroes; at the great states, ambitious, dictatorial, and unworthy of trust; and defied them to dissolve the confederation, for ruin would then stare them in the face.[2]

To a question from King, whether by entering into a national government he would not equally participate in national security, Ellsworth answered: "I confess I should; but a general government cannot know my wants, nor relieve my distress. I depend for domestic happiness as much on my state government as a new-born infant depends upon its mother for nourishment. If this is not an answer, I have no other to give."[3]

July 2.

On the motion of Ellsworth, five states voted for equal suffrage in the senate; five of the six national states answered, No. All interest then centred upon Georgia, the sixth national state and the last to vote. Baldwin, fearing a disruption of the convention, and convinced of the hopelessness of assembling another under better auspices, dissented from his colleague, and divided the vote of his state. So the motion was lost by a tie; but as all believed that New Hampshire and Rhode Island, had they been present, would have voted with Connecticut, the convention moved rapidly toward its inevitable decision.

[1] Gilpin, 1012; Elliot, 267; Yates in Elliot, i. 471.

[2] Gilpin, 1012–1014; Elliot, 268.

[3] Yates in Elliot, i. 473, 474.

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CHAP. III.

1787. July 2.

For a moment Charles Pinckney made delay by calling up his scheme of dividing the United States into northern, middle, and southern groups, and apportioning the senators between the three;[1] a measure which, with modifications, he repeatedly brought forward.

Cotesworth Pinckney liked better the motion of Franklin, and proposed that a committee of one from each state, taking into consideration both branches of the legislature, should devise and report a compromise.[2] "Such a committee," said Sherman, "is necessary to set us right."

Gouverneur Morris, who, after a month's absence, had just returned, spoke abruptly for a senate for life to be appointed by the executive;[3] but the committee was ordered by a great majority; and the house showed its own inclination by selecting Franklin, Gerry, Ellsworth, Yates, Paterson, even Bedford and Martin, Mason, Davie, Rutledge, and Baldwin. To give them time for their task, and to all the opportunity of celebrating the anniversary of independence, the convention adjourned for three days.[4]

[1] Gilpin, 1017; Elliot, 270.
[2] Gilpin, 1017, 1018; Elliot, 270.
[3] Gilpin, 1020; Elliot, 271.
[4] Gilpin, 1023, 1024; Elliot, 273.

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CHAPTER IV.

THE ADJUSTMENT OF REPRESENTATION.

CHAP. IV.

1787. July 3. On the morning of the third of July, the grand committee accepted as a basis for a compromise[1] the proposal of Franklin,[2] that in the first branch of the first congress there should be one member for every forty thousand inhabitants, counting all the free and three fifths of the rest; that in the second branch each state should have an equal vote; and that, in return for this concession to the small states, the first branch should be invested with the sole power of originating taxes and appropriations. The settlement of the rule of representation for new states was considered, but was left to the convention.

5. "The committee have exceeded their powers,"[3] cried Wilson, when Gerry, on the fifth, delivered the report to the convention. Madison encouraged the large states to oppose it steadfastly. Butler denounced the plan as unjust.[4] Gouverneur Morris, delighting to startle by his cynicism, condemned alike its form and substance,[5] adding: "State attach-

[1] Yates in Elliot, i. 478.
[2] Martin in Elliot, i. 358.
[3] Gilpin, 1025; Elliot, 274.
[4] Gilpin, 1028; Elliot, 275.
[5] Gilpin, 1028; Elliot, 276.

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ments and state importance have been the bane of the country. We cannot annihilate the serpents, but we may perhaps take out their teeth.[1] Suppose the larger states agree, the smaller states must come in. Jersey would follow the opinions of New York and Pennsylvania. If persuasion does not unite the small states with the others, the sword will. The strongest party will make the weaker traitors, and hang them. The larger states are the most powerful; they must decide."[2] Ellsworth enforced the necessity of compromise, and saw none more convenient or reasonable than that proposed by the committee.[3]

CHAP. IV. 1787. July 5.

"We are neither the same nation, nor different nations," said Gerry; "we therefore ought not to pursue the one or the other of these ideas too closely. Without a compromise a secession will take place, and the result no man can foresee."[4]

"There must be some accommodation on this point," said Mason, "or we shall make little further progress in the work. It cannot be more inconvenient to any gentleman to remain absent from his private affairs than it is for me; but I will bury my bones in this city rather than expose my country to the consequences of a dissolution of the convention without anything being done."[5]

A throng of questions on representation thrust themselves into the foreground. Gouverneur Morris objected to the rule of numbers alone in the distribution of representatives. "Not liberty," said he; "property is the main object of society. The savage

[1] Gilpin, 1032; Elliot, 277.
[2] Paterson MSS.
[3] Gilpin, 1032; Elliot, 278.
[4] Gilpin, 1032; Elliot, 278.
[5] Gilpin, 1033; Elliot, 278.

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CHAP. IV. 1787. July 5. state is more favorable to liberty than the civilized, and was only renounced for the sake of property. A range of new states will soon be formed in the West. The rule of representation ought to be so fixed as to secure to the Atlantic states a prevalence in the national councils."[1] Rutledge repeated: "Property is certainly the principal object of society." "If numbers should be the rule of representation, the Atlantic states will soon be subjected to the western." "If new states," said Mason and Randolph, "make a part of the union, they ought to be subject to no unfavorable discriminations."[2]

6. On the morning of the sixth, Gouverneur Morris moved to refer the ratio of representation in the popular branch to a committee of five.[3] Wilson, who still strove to defeat the compromise between the federal and the national states, seconded the motion. In the distribution of representatives, Gorham thought the number of inhabitants the true guide. "Property," said King, "is the primary object of society, and in fixing a ratio, ought not to be excluded from the estimate."[4] "Property," said Butler, "is the only just measure of representation."[5] To Charles Pinckney the number of inhabitants appeared the true and only practicable rule,[6] and he acquiesced in counting but three fifths of the slaves. The motion of Morris was carried by New England, Pennsylvania, and the four southernmost slaveholding states. Gorham, King[7] and Gouverneur Mor-

[1] Gilpin, 1034; Elliot, 278, 279.
[2] Gilpin, 1035; Elliot, 279.
[3] Gilpin, 1036; Elliot, 280.
[4] Gilpin, 1037; Elliot, 280.
[5] Gilpin, 1038; Elliot, 281.
[6] Gilpin, 1039; Elliot, 281.
[7] Ibid.

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ris, Randolph and Rutledge were chosen the committee.

1787. July 7.

On the seventh the clause allowing each state an equal vote in the senate was retained as part of the report by a majority of six to three, New York being present and voting with the majority, Massachusetts and Georgia being divided.

The number and distribution of the members of the first branch of the legislature in the first congress, the rule for every future congress, the balance of legislative power between the South and the North; between the carrying states which asked for a retaliatory navigation act and the planting states which desired free freight and free trade; between the original states and new ones; the apportionment of representation according to numbers or wealth, or a combination of the two; the counting of all, or three fifths, or none, of the slaves; the equal suffrage in the senate—became the subjects of motions and counter-motions, postponements and recalls. To unravel the tangled skein it is necessary to trace each subject for itself to its preliminary settlement.

9.

On the ninth Gouverneur Morris presented the report of the committee of five. It changed the distribution of representation in the first congress to the advantage of the South; for the future, no one opposing except Randolph, it authorized, but purposely refrained from enjoining, the legislature, from time to time, to regulate the number of representatives of each state by its wealth and the number of its inhabitants.[1]

[1] Gilpin, 1051, 1052; Elliot, 287, 288.

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CHAP. IV.

1787. July 9. "The report," said Sherman, "corresponds neither with any rule of numbers, nor any requisition by congress;"[1] and on his motion its first paragraph was referred to a committee of one member from each state.[2] Gouverneur Morris seconded and Randolph approved the motion.[3] Paterson could regard negro slaves in no light but as property; to grant their masters an increase of representation for them he condemned as an indirect encouragement of the slave-trade.[4] Madison revived his suggestion of a representation of free inhabitants in the popular branch; of the whole number, including slaves, in the senate; which, as the special guardian of property, would rightly be the protector of property in slaves.[5] "The southern states are the richest," said King, who yet should have known that they were not so, or perhaps was thinking only of the exports of the country; "they will not league themselves with the northern unless some respect is paid to their superior wealth. The North must not expect to receive from the connection preferential distinctions in commerce without allowing some advantage in return."[6]

10. The committee of one from each state on the very next morning produced their well-considered report. The committee of five had fixed the number of representatives at fifty-six; or thirty from the North, twenty-six from the South; and Maryland and Virginia had each given up one member to South Carolina, raising her number to five.[7]

[1] Gilpin, 1052; Elliot, 288.
[2] Elliot, i. 197.
[3] Gilpin, 1054; Elliot, 288, 289.
[4] Gilpin, 1054, 1055; Elliot, 289.
[5] Gilpin, 1055; Elliot, 289, 290.
[6] Gilpin, 1056; Elliot, 290.
[7] Gilpin, 1062, 1063; Elliot, 293.

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CHAP. IV.

1787. July 10.

In the confederacy each state might send to congress as many as seven delegates, so that the whole number in congress might be ninety-one. This number was adopted for the new constitution: as there were to be two branches of the legislature, two members for each state were assigned to the branch representing the states, the remaining sixty-five were assigned to the popular branch. Thirty-five were parcelled out to the North, to the South thirty. Of the new members for the South, two were allotted to Maryland, one to Virginia, and one to Georgia. In this way Connecticut, North Carolina, and South Carolina, having each five votes in the popular branch, retained in the house exactly one thirteenth of all the votes in that body, and so would hold in each branch exactly the same relative power as in the confederacy. The first census established the justice of this relative distribution between the North and the South; though, within the South, Georgia and South Carolina had each at least one more than its share.

The final division was approved by all except South Carolina and Georgia; and these two favored states now opened a resolute but not stormy debate to gain still more legislative strength. To this end Rutledge moved to reduce the absent state of New Hampshire from three to two members, pleading its deficiency in population and its poverty.[1]

King, after demonstrating the rights of New Hampshire, proceeded: "The difference of interests lies not between the great and small states, but between the

[1] Gilpin, 1057; Elliot, 290.

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CHAP. IV. 1787. July 10.

southern and eastern. For this reason I have been ready to yield something in the proportion of representatives for the security of the southern. I am not averse to yielding more, but do not see how it can be done. They are brought as near an equality as is possible; no principle will justify giving them a majority."[1] Cotesworth Pinckney replied: "If the southern states are to be in such a minority, and the regulation of trade is to be given to the general government, they will be nothing more than overseers for the northern states. I do not expect the southern states to be raised to a majority of the representatives; but I wish them to have something like an equality." Randolph, speaking the opinions of Richard Henry Lee and of Mason as well as his own, announced that he had it in contemplation to require more than a bare majority of votes for laws regulating trade.

For reducing New Hampshire none voted but South Carolina and Georgia.[2] There followed successive motions to give one additional vote to each of the three southernmost states. They were all lost; that for Georgia alone gaining the vote of Virginia.

On that day Robert Yates and John Lansing, of New York, were on the floor for the last time. The governor of their state had unreservedly declared that no good was to be expected from the deliberations at Philadelphia; that the confederation on more full experiment might be found to answer all the purposes of the union.[3] The state which had borne itself

[1] Gilpin, 1057, 1058; Elliot, 290, 291.

[2] Gilpin, 1059; Elliot, 291; Elliot, i. 198.

[3] Penn. Packet, 26 July, 1787.

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with unselfish magnanimity through the war of the revolution had fallen under the sway of factious selfishness. Yielding to this influence, Yates and Lansing, renouncing the path to glory and the voice of duty, deserted their post, leaving to the South the power to mould the commercial policy of the union at their will. Hamilton, being left alone, had no vote, and from this day to the end was absent more than half the time, taking little part in the formation of the constitution. 1787. July 10.

In the convention, from its organization to its dissolution, there was always a majority of at least one on the side of the southern states. After the defection of New York the proportion remained six to four till New Hampshire arrived.

Slavery in the United States was a transient form, not an original element of their colonization, nor its necessary outgrowth. In the division between northern and southern states the criterion was, whether a state retained the power and the will by its own inward energy to extricate itself from slavery. Seven had abolished, or were preparing to abolish it. Madison[1] and others counted the southern states as no more than five; but Delaware, like all south of it, gave signs that it was not equal to the high endeavor of setting its bondmen free; and its votes in the convention prove that it was rightly classed by Dayton[2] with the South. The boundary between the two sections was Mason and Dixon's line. Pennsylvania, purely popular, without family aristocracies or the ascendency of any one form of religion, first in agriculture and com-

[1] Gilpin, 1104; Elliot, 815. [2] Gilpin, 1058; Elliot, 291.

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CHAP. IV. 1787. July 10.

merce, and not surpassed in ship-building, stood midway between six northern states and six southern ones, the stronghold of an undivided, inseparable federal republic.

The abolition of slavery in the North, which was aided by the long British occupation of Boston, Rhode Island, and New York, had not been accomplished without a quickening of conscience on the wrongfulness of hereditary bondage and its inconsistency with the first principles of American polity. By the act of Pennsylvania of 1780 for the gradual abolition of slavery, persons merely sojourning in the state were permitted to retain their slaves for a term of six months; delegates in congress from other states, foreign ministers and consuls, as long as they continued in their public characters. The right of the masters of absconding slaves to take them away remained as before. But the recovery of a slave through the interposition of the courts was resisted with zeal by self-appointed agents;[1] and the southern master sometimes had no relief but to seize the runaway and bring him back to bondage by force.

Abolition and manumission societies were formed in various parts of the North. Of one of these Hamilton was the secretary, with Jay, Duane, and Robert R. Livingston for associates. Just at this time Franklin was elected president of the society in Pennsylvania. The newspapers of all parties at the North teemed with essays against slavery. The opposition to it prevailed in nearly all religious and

[1] Dallas, i. 179, 180; ii. 224.

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political sects, but flamed the brightest among those of extreme democratic tendencies. CHAP. IV.

In 1783 deputies from the yearly meeting of the Quakers were admitted to the floor[1] of congress, and delivered their address, entreating that body to use its influence for the general abolition of the slave-trade, and in several later years the meeting renewed the petition.[2] The Presbyterian synod which met at Philadelphia in the same week as the federal convention resolved "to procure eventually the final abolition of slavery in America."[3] The Pennsylvania Abolition Society adopted a memorial to the convention to suppress the slave-trade,[4] though, from motives of prudence, it was not presented. 1787. July 10.

This conspicuous action at the North on the slave-trade and slavery might have baffled every hope of a consolidated union but for the wide distinction between those states that were least remote from the West Indies and those that lay nearer the North; between the states which planted indigo and rice and those which cultivated by slave labor maize and wheat and tobacco; between Georgia and South Carolina which had ever been well affected to the slave-trade, and the great slave-holding state to the north of them which had wrestled with England for its abolition.

In the three northernmost of the southern states

[1] Journals of Congress, iv. 289.

[2] Address presented 8 Oct., 1783, MS., at State Dept., Vol. of Remonstrances and Addresses, 339; Letter to R. H. Lee, President, 21 Jan., 1785; ibid., 347. See the MS. Records of the Friends, 20 Oct., 1786, and Oct., 1789.

[3] Acts and Proceedings of the Synod of New York and Philadelphia, A. D. 1787.

[4] Penn. Packet of 14 Feb., 1788; Independent Gazetteer of 7 March, 1788.

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CHAP. IV. 1787. July 10. slavery maintained itself, not as an element of prosperity, but as a baleful inheritance. The best of the statesmen of Virginia, without regard to other questions which divided them, desired its abolition—alike Washington, Richard Henry Lee, Jefferson, Randolph, Madison, and Grayson. George Mason had written to the legislature of Virginia against it with the most terrible invectives and gloomiest forebodings.

This comparative serenity of judgment in Virginia was shared, though not completely, by North Carolina, of whose population three parts out of four were free, and whose upland country attracted emigrants by its fertility, salubrity, and beauty.

The difference between the two classes of slave states was understood by themselves, and was a guarantee that questions on slavery would neither inflame nor unite them. Virginia and North Carolina held the balance of power, and knew how to steer clear of a fatal collision.

9. The preliminary distribution of representatives having been agreed upon, Gouverneur Morris desired to leave the control of future changes to the national legislature.[1] Perceiving peril in confiding so vast a discretion to those who might be tempted to keep to themselves an undue share of legislative power,

10. Randolph, following the precedent of 1781, insisted on an absolute constitutional requirement of a census of population and an estimate of wealth, to be taken within one year after the first meeting of the legislature, and ever thereafter periodically; and

[1] Gilpin, 1052; Elliot, 288.

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that the representation should be arranged accordingly.[1]

1787. July 11.

Gouverneur Morris, supported by King and others, resisted this "fettering of the legislature," by which a preponderance might be thrown into the western scale. In various debates it was urged by Morris and King and others that the western people would in time outnumber those of the Atlantic states, while they would be less wealthy, less cultivated, less favorable to foreign commerce, and less willing to bide the right moment for acquiring the free navigation of the lower Mississippi; that the busy haunts of men are the proper school for statesmen; that the members from the back country are always most averse to the best measures; that, if the western people should get the power into their hands, they would ruin the Atlantic interests; and therefore that, in every future legislature, the original states should keep the majority in their own hands.[2]

To this Mason replied: "A revision from time to time, according to some permanent and precise standard, is essential to fair representation. According to the present population of America, the northern part of it has a right to preponderate; and I cannot deny it. But, unless there shall be inserted in the constitution some principle which will do justice to the southern states hereafter, when they shall have three fourths of the people of America within their limits, I can neither vote for the system here nor support it in my state. The western states as they arise must be treated as equals, or they will speedily

[1] Gilpin, 1068; Elliot, 293.

[2] Gilpin, 1072; Elliot, 298.

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CHAP. IV.

revolt. The number of inhabitants is a sufficiently precise standard of wealth."[1]

1787. July 11.

"Congress," said Randolph, "have pledged the public faith to the new states that they shall be admitted on equal terms. They never will, they never ought to accede on any other."[2] Madison demonstrated that no distinctions unfavorable to the western states were admissible, either in point of justice or policy.[3]

By a majority of two to one the first legislature under the new constitution was required to provide for a census;[4] a periodical census ever after was then accepted without a division. Its period, first fixed at fifteen years, after repeated debates, was reduced to ten.[5]

Yet an ineradicable dread of the coming power of the South-west lurked in New England, especially in

14. Massachusetts. Only three days after the subject appeared to have been definitively disposed of, Gerry and King moved that the representatives of new states should never collectively exceed in number the representatives from such of the old thirteen states as should accede to the new confederation.[6] The motion came from New England; and from New England came the reply. "We are providing for our posterity," said Sherman, who had helped to secure to Connecticut a magnificent reserve of lands in northern Ohio. "Our children and our grandchildren will be as likely to be citizens of new western states as of

[1] Gilpin, 1065, 1066; Elliot, 294, 295.
[2] Gilpin, 1067; Elliot, 295.
[3] Gilpin, 1078; Elliot, 299.
[4] Gilpin, 1078; Elliot, 301.
[5] Gilpin, 1086; Elliot, 305.
[6] Gilpin, 1095; Elliot, 310.

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the old states."[1] His words were lost upon his own colleagues. The motion was defeated by the narrowest majority, Massachusetts being sustained by Connecticut, Delaware, and Maryland, against New Jersey and the four southernmost states, Pennsylvania being divided.[2] The vote of Maryland and Delaware was but the dying expression of old regrets about the proprietaryship of western lands, from which they had been excluded; that of Massachusetts sprung from a jealousy which increased with the ever-increasing political power of the South-west. But in spite of renewed murmurs the decision was never reversed. CHAP. IV. 1787. July 14.

The final concession on the representation for slaves proceeded from North Carolina. Williamson accepted for the permanent basis the free inhabitants and three fifths of all others.[3] Randolph agreed to the amendment. On the instant Butler and Cotesworth Pinckney demanded that the blacks should be counted equally with the whites.[4] 11.

New York, New Hampshire, and Rhode Island not being on the floor, the southern states were left with ample power to settle the question as they pleased. "The motion," said Mason, "is favorable to Virginia, but I think it unjust. As slaves are useful to the community at large, they ought not to be excluded from the estimate for representation; I cannot, however, vote for them as equals to freemen."[5] On the question, Delaware alone joined South Carolina and Georgia.

[1] Gilpin, 1095; Elliot, 310.
[2] Ibid.
[3] Gilpin, 1066; Elliot, 295.
[4] Gilpin, 1067; Elliot, 296.
[5] Gilpin, 1068, 1069; Elliot, 296.

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CHAP. IV. 1787. July 11.

Rutledge next insisted on proportioning representation periodically according to wealth as well as population. This was condemned by Mason as indefinite and impracticable, leaving to the legislature a pretext for doing nothing.[1] Madison saw no substantial objection to fixing numbers for the perpetual standard of representation.[2] In like manner Sherman, Johnson, Wilson, and Gorham looked upon population as the best measure of wealth; and accepted the propriety of establishing numbers as the rule.

King refused to be reconciled to any concession of representation for slaves.[3] Gouverneur Morris, always a hater of slavery, closed the debate by saying: "I am reduced to the dilemma of doing injustice to the southern states, or to human nature, and I must do it to the former; I can never agree to give such encouragement to the slave-trade as would be given by allowing them a representation for their negroes."[4]

On the division, those who insisted on enumerating all the slaves and those who refused to enumerate any of them, as elements of representation, partially coalesced; and Connecticut, Virginia, and North Carolina, though aided by Georgia, were outvoted by Massachusetts, New Jersey, Pennsylvania, Delaware, Maryland, and South Carolina.[5]

The aspect of affairs at the adjournment was not so dangerous as it seemed. Virginia with a united delegation had her hand on the helm, while North Carolina kept watch at her side.

[1] Gilpin, 1071; Elliot, 297.
[2] Gilpin, 1074; Elliot, 299.
[3] Gilpin, 1076; Elliot, 300.
[4] Gilpin, 1078; Elliot, 301.
[5] Ibid.

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CHAP. IV.

1787. July 12.

But Gouverneur Morris brooded over the deep gulf by which the convention seemed to him rent in twain; and rashly undertook to build a bridge over the chasm. To that end he proposed the next morning that taxation should be in proportion to representation.[1] His motion was general, extending to every branch of revenue.

The convention was taken by surprise. South Carolina scorned to be driven from her object by the menace of increased contributions to the general treasury; and again demanded a full representation for all blacks.[2] Mason pointed out that the proposal of Gouverneur Morris would so embarrass the legislature in raising a revenue that they would be driven back to requisitions on the states. Appalled at discovering that his motion was a death-blow to the new constitution, Morris limited it to direct taxation, saying: "It would be inapplicable to indirect taxes on exports and imports and consumption."[3] Cotesworth Pinckney took fire at the idea of taxing exports. Wilson came to the partial rescue of Morris; and the convention, without a dissentient, agreed that "direct taxation ought to be in proportion to representation."[4] In this short interlude, by the temerity of one man, the United States were precluded from deriving an equitable revenue from real property. Morris soon saw what evil he had wrought, but he vainly strove to retrieve it.

The moderating states of the South grew restless. "North Carolina," said Davie, "will never confederate

[1] Gilpin, 1079; Elliot, 802.
[2] Gilpin, 1079, 1080; Elliot, 802.
[3] Gilpin, 1080; Elliot, 802.
[4] Gilpin, 1081; Elliot, 802.

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CHAP. IV. 1787. July 12. on terms that do not rate their blacks at least as three fifths."[1] Johnson, holding the negro slave to be a man, and nothing less than a man, could not forego the conclusion "that blacks equally with the whites ought to fall within the computation," and his votes conformed to his scruples. Contrary to the wishes of Gouverneur Morris and King, Randolph insisted that the representation allowed for slaves should be embodied in the constitution, saying: "I lament that such a species of property exists; but, as it does exist, the holders of it will require this security."[2] Ellsworth seconded Randolph, whose motion was tempered in its form by Wilson, so as to avoid the direct mention of slavery or slave. "The southern states," said King, "threaten to separate now in case injury shall be done them. There will be no point of time at which they will not be able to say, 'Do us justice or we will separate.'" The final motion to make blacks equal with whites in fixing the ratio of representation received no support but from South Carolina and Georgia;[3] and the compromise, proportioning representation to direct taxation, and both to the number of the free and three fifths of others, was established by the southern states, even Georgia approving, and South Carolina relenting so far as to divide its vote.[4]

13. Randolph seized the opportunity to propose numbers as the sole rule of representation. Gouverneur Morris "stated the result of his deep meditation": "The southern gentlemen will not be satisfied unless

[1] Gilpin, 1081; Elliot, 302, 303.
[2] Gilpin, 1083; Elliot, 304.
[3] Gilpin, 1084–1087; Elliot, 305.
[4] Gilpin, 1086, 1087; Elliot, 306.

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they see the way open to their gaining a majority in the public councils. The consequence of such a transfer of power from the maritime to the interior and landed interest will, I foresee, be an oppression to commerce. In this struggle between the two ends of the union, the middle states ought to join their eastern brethren. If the southern states get the power into their hands and be joined as they will be with the interior country, everything is to be apprehended." 1787. July 13.

By the interior, Morris had specially in his mind the rising states of Kentucky and Tennessee. Butler replied: "The southern states want security that their negroes may not be taken from them, which some gentlemen within or without doors have a very good mind to do. North Carolina, South Carolina, and Georgia will have relatively many more people than they now have. The people and strength of America are evidently bearing to the South and Southwest."[1]

"The majority," said Wilson, "wherever found, ought to govern. The interior country, should it acquire this majority, will avail itself of its right whether we will or no. If numbers be not a proper rule, why is not some better rule pointed out? Congress have never been able to discover a better. No state has suggested any other. Property is not the sole nor the primary end of government and society; the improvement of the human mind is the most noble object. With respect to this and other personal rights, numbers are surely the natural and pre-

[1] Gilpin, 1091–1093; Elliot, 308, 309.

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CHAP. IV.

cise measure of representation, and could not vary much from the precise measure of property."[1]

1787. July 13. The apportionment of representation to numbers was adopted without a negative, Delaware alone being divided.[2] The American declaration of independence proclaimed all men free and equal; the federal convention founded representation on numbers alone.

The equality of votes of the states in the senate when reported to the convention was resisted by Wilson, King, and Madison to the last as contrary to

14. justice. On the other hand, Sherman held that the state governments could not be preserved unless they should have a negative in the general government.

Caleb Strong, a statesman of consummate prudence, from the valley of the Connecticut, a graduate of Harvard, and a fit representative of the country people of Massachusetts, lucidly reviewed the case, and from the desire to prevent the dissolution of the union found himself compelled to vote for the compromise. Madison replied in an elaborate speech, which closed with these words: "The perpetuity which an equality of votes in the second branch will give to the preponderance of the northern against the southern scale is a serious consideration. It seems now well understood that the real difference of interests lies, not between the large and small, but between the northern and southern states. The institution of slavery and its consequences form the line of discrimination. Should a proportional representation take place, the northern will still outnumber the

[1] Gilpin, 1093, 1094; Elliot, 309. [2] Gilpin, 1094; Elliot, 309.

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other; but every day will tend toward an equilibrium."[1] CHAP. IV.

The great poet of the Hellenic race relates how the most famed of its warriors was lured by one of the heavenly powers from the battle-field to chase a phantom. Had the South joined with the smaller states to establish the suffrage by states in both branches of the general legislature, it would, in less than ten years,[2] have arrived at an equality, alike in the house and in the senate. But it believed that swarms of emigrants were about to throng every path to the South-west, bearing with them affluence and power. It did not yet know the dynamic energy of freedom in producing wealth, and attracting and employing and retaining population. The equality of the vote in the senate, which Virginia and South Carolina vehemently resisted, was to gain and preserve for the slave-holding states a balance in one branch of the legislature; in the other, where representation was apportioned to population, the superiority of the free commonwealths would increase from decade to decade till slavery in the United States should be no more. Shrinking from the final vote on the question, the house adjourned. 1787. July 14.

On Monday, the sixteenth, as soon as the convention assembled, the question was taken on the amended report which included an equality of votes in the senate.[3] The six southern states were present, and only four of the northern. Four of the six states which demanded a proportioned representa- 16.

[1] Gilpin, 1104; Elliot, 315.
[2] On the admission of Tennessee, 1796.
[3] Gilpin, 1107; Elliot, 316.

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CHAP. IV.

tion stubbornly refused to yield. It was of decisive influence on the history of the country that Strong and Gerry, balancing the inflexible King and Gorham, pledged Massachusetts at least to neutrality. On the other side, Connecticut, New Jersey, Delaware, and Maryland spurned the thought of surrender. The decision was given by North Carolina, which broke from her great associates and gave a majority of one to the smaller states. More than ten years before, Jefferson had most earnestly proposed this compromise, seeking to proselyte John Adams, to whom he wrote: "The good whigs will so far cede their opinions for the sake of union."[1] He heard with great joy that his prophecy had come to pass.[2]

1787. July 16.

The large states accepted the decision as final. When, on the seventeenth, Gouverneur Morris proposed a reconsideration of the resolution of the former day, no one would second his motion.

17.

A few days later the number of senators for each state was fixed at two, and each of these, as had been proposed by Gerry and seconded by Sherman, was personally to have one vote.[3]

23

From the day when every doubt of the right of the smaller states to an equal vote in the senate was quieted, they—so I received it from the lips of Madison, and so it appears from the records—exceeded all others in zeal for granting powers to the general government. Ellsworth became one of its strongest pillars. Paterson of New Jersey was for the rest of his life a federalist of federalists.

[1] Works of John Adams, ix. 465–467.

[2] Jefferson, ii. 329.

[3] Gilpin, 1098, 1185, 1186; Elliot, 311, 312, 857.

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CHAPTER V.

THE OUTLINE OF THE CONSTITUTION COMPLETED AND REFERRED.

THE distribution of powers between the general government and the states was the most delicate and most difficult task before the convention. Startled by the vagueness of language in the Virginia resolve, Sherman, who with his colleagues had prepared a series of amendments to the old articles of confederation,[1] proposed the grant of powers "to make laws in all cases which may concern the common interests of the union, but not to interfere with the government of the individual states in any matters of internal police which respect the government of such states only, and wherein the general welfare of the United States is not concerned."[2] Wilson seconded the amendment, as better expressing the general principle. But, on scanning its probable interpretation by the separate states, the objection prevailed that it would be construed to withhold from the general government the authority to levy direct taxes and

1787. July 17.

[1] Life of Sherman by Jeremiah Evarts, ii. 42, in Lives of the Signers.

[2] Gilpin, 1115; Elliot, 319, 320.

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CHAP. V.

the authority to suppress the paper money of the states.

1787. July 17.

Bedford moved to empower the national legislature "to legislate for the general interests of the union, for cases to which the states are separately incompetent, and for cases in which the harmony of the United States might be interrupted by the exercise of individual legislation."[1] This Gouverneur Morris gladly seconded; and, though Randolph resisted, the current ran with such increasing vehemence for union that the amendment was adopted at first by six states, and then by every state but South Carolina and Georgia.

As to giving power to the national legislature "to negative laws passed by the several states," Gouverneur Morris, opposing it as terrible to the states,[2] looked where Jefferson invited Madison to look—to the judiciary department to set aside a law that ought to be negatived.[3] Sherman insisted that state laws, contravening the authority of the union,[4] were invalid and inoperative from the beginning. Madison put forth all his strength to show that a power of negativing the improper laws of the states is the most mild and certain means of preserving the harmony of the system. He was supported by Massachusetts, Virginia, and North Carolina.[5]

From the New Jersey plan it was taken without one dissentient, that the laws and treaties of the United States should be the supreme law of the states, and bind their judiciaries, anything in their

[1] Gilpin, 1116; Elliot, 320.
[2] Gilpin, 1117; Elliot, 321.
[3] Gilpin, 1118; Elliot, 321.
[4] Gilpin, 1117; Elliot, 321, 322.
[5] Gilpin, 1118, 1119; Elliot, 322.

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laws to the contrary notwithstanding.[1] That all power not granted to the general government remained with the states was the opinion of every member of the convention; but they held it a work of supererogation to place in the constitution an express recognition of the reservation. Thus in one half of a morning the convention began and ended its distribution of power between the states and the union. The further development of the central government brought to it a wider scope of action and new ascendency over the states. CHAP. V. 1787. July 17.

The construction of the executive department was fraught with bewildering difficulties, of which a new set rose up as fast as the old ones were overcome. The convention, though it devoted many days in July to the subject, did but acquiesce for the moment in the Virginia resolve, with which its deliberations had yet made it thoroughly discontented.

Mason and the Pinckneys would have required a qualification of landed property for the executive, judiciary, and members of the national legislature.[2] Gerry approved securing property by property provisions. "If qualifications are proper," said Gouverneur Morris, "I should prefer them in the electors rather than the elected";[3] and Madison agreed with him. "I," said Dickinson, "doubt the policy of interweaving into a republican constitution a veneration for wealth. A veneration for poverty and virtue is the object of republican encouragement. No man of merit should be subjected to disabilities in a re- 26.

[1] Gilpin, 1119; Elliot, 322.
[2] Gilpin, 1211, 1213; Elliot, 870, 871.
[3] Gilpin, 1211; Elliot, 870.

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CHAP. V.

1787. July 26.

public where merit is understood to form the great title to public trust, honors, and rewards."[1] The subject came repeatedly before the convention; but it never consented to require a property qualification for any office in the general government. In this way no obstruction to universal suffrage was allowed to conquer a foothold in the constitution, but its builders left the enlargement of suffrage to time and future lawgivers. They disturbed no more than was needed for the success of their work. They were not restless in zeal for one abstract rule of theoretical equality to be introduced instantly and everywhere. They were like the mariner in mid-ocean on the rolling and tossing deck of a ship, who learns how to keep his true course by watching the horizon as well as the sun. In leading a people across the river that divided their old condition from the new, the makers of the new form of government anchored the supporting boats of their bridge up stream. The qualifications of the electors it left to be decided by the states, each for itself.

18. All agreed "that a supreme tribunal should be established,"[2] and that the national legislature should be empowered to create inferior tribunals.[3] By the report of the committee, the judges were to be appointed by the senate. Gorham, supported by Gouverneur Morris, proposed their appointment "by the executive with the consent of the senate"; a mode, he said, which had been ratified by the experience of a hundred and forty years in Massachusetts.[4] The

[1] Gilpin, 1213–1215; Elliot, 871, 872.
[2] Gilpin, 1130; Elliot, 328.
[3] Gilpin, 1137; Elliot, 331.
[4] Gilpin, 1134; Elliot, 330.

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proposal was gradually gaining favor; but for the moment failed by an equal division. CHAP. V.

The trial of impeachments of national officers was taken from the supreme court; and then, in the words of Madison, its jurisdiction was unanimously made to "extend to all cases arising under the national laws, or involving the national peace and harmony."[1] Controversies which began and ended in the several states were not to be removed from the courts of the states. 1787. July 18.

The convention had still to decide how the new constitution should be ratified. "By the legislatures of the states," said Ellsworth, and he was seconded by Paterson. "The legislatures of the states have no power to ratify it," said Mason. "And, if they had, it would be wrong to refer the plan to them, because succeeding legislatures, having equal authority, could undo the acts of their predecessors, and the national government would stand in each state on the tottering foundation of an act of assembly. Whither, then, must we resort? To the people, with whom all power remains that has not been given up in the constitutions derived from them." 23.

"One idea," said Randolph, "has pervaded all our proceedings, that opposition, as well from the states as from individuals, will be made to the system to be proposed. Will it not, then, be highly imprudent to furnish any unnecessary pretext by the mode of ratifying it? The consideration of this subject should be transferred from the legislatures, where local demagogues have their full influence, to a field in which their efforts can be less mischievous. Moreover, some

[1] Gilpin, 1138; Elliot, 332.

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CHAP. V. 1787. July 23.

of the states are averse to any change in their constitution, and will not take the requisite steps unless expressly called upon to refer the question to the people."[1]

"The confederation," said Gerry, "is paramount to the state constitutions; and its last article authorizes alterations only by the unanimous concurrence of the states." "Are all the states," replied his colleague Gorham, "to suffer themselves to be ruined, if Rhode Island, if New York, should persist in opposition to general measures? Provision ought to be made for giving effect to the system, without waiting for the unanimous concurrence of the states."[2]

"A new set of ideas," said Ellsworth, "seems to have crept in since the articles of confederation were established. Conventions of the people, with power derived expressly from the people, were not then thought of."[3] "A reference to the authority of the people expressly delegated to conventions," insisted King, "is most likely to draw forth the best men in the states to decide on the new constitution, and to obviate disputes concerning its validity."[4]

Madison spoke with intense earnestness. "The difference between a system founded on the legislatures only and one founded on the people is the difference between a treaty and a constitution. A law violating a treaty, ratified by a pre-existing law, might be respected by the judges; a law violating a constitution established by the people themselves would be considered by the judges as null and void. A

[1] Gilpin, 1177–1179; Elliot, 352, 353.
[2] Gilpin, 1180; Elliot, 353, 354.
[3] Gilpin, 1181; Elliot, 354.
[4] Gilpin, 1182, 1183; Elliot, 355.

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breach of any one article of a treaty by any one of the parties frees the other parties from their engagements; a union of the people, under one constitution, by its nature excludes such an interpretation."[1] CHAP. V. 1787. July 23.

After a full debate, the convention, by nine states against Delaware, referred the ratification of the new constitution to an assembly in each state to be chosen specially for that purpose by the people.[2]

The proceedings of the federal convention for the establishment of a national government, consisting of twenty-three resolutions, were referred to a committee of detail, five in number, who were ordered to prepare and report them in the form of a constitution. With them were referred the propositions of Charles Pinckney and the plan of New Jersey. 24–26.

The federal convention selected for its committee of detail three members from the North and two from the South—Gorham, Ellsworth, Wilson, Randolph, and Rutledge, of whom the last was the chairman. By ancestry Scotch-Irish, in early youth carefully, but privately, educated, afterward a student of law in the Temple at London, Rutledge became the foremost statesman of his time south of Virginia. At the age of twenty-six he began his national career in the stamp act congress of 1765, and from that time was employed by his state wherever the aspect of affairs was the gravest. Patrick Henry pronounced him the most eloquent man in the congress of 1774; his sincerity gave force to his words. In the darkest hours he was intrepid, hopeful, inventive of resources,

[1] Gilpin, 1183, 1184; Elliot, 855, 856.

[2] Gilpin, 1185; Elliot, 856.

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CHAP. V. 1787. July 24-26.

and resolute, so that timidity and wavering disappeared before him. To the day when disease impaired his powers he was, in war and in peace, the pride of South Carolina. That state could not have selected an abler representative of its policy on the payment of the members of the national legislature from the treasuries of the states, on the slave-trade, the taxation of exports, and the requisition of more than a bare majority of the legislature to counteract European restrictions on navigation.

Of his associates, Gorham was a merchant of Boston, who from his own experience understood the commercial relations of his country, and knew where the restrictive laws of England, of France, and of Spain injured American trade and shipping. Ellsworth, who had just established harmony between the small and the larger states by a wise and happy compromise, now found himself the umpire between the extreme South and the North.

Cotesworth Pinckney called to mind that if the committee should fail to insert some security to the southern states against an emancipation of slaves, and against taxes on exports, he should be bound by duty to his state to vote against their report.[1] After this the convention, on the twenty-sixth of July, unanimously adjourned till Monday, the sixth of August, that the committee of detail might have time to prepare and report the constitution.[2]

26–August 6.

The committee in joint consultation gave their unremitting attention to every question that came be-

[1] Gilpin, 1187; Elliot, 357. [2] Gilpin, 1220; Elliot, 374, 375.

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CHAP. V.

1787. July 26–August 6.

fore them.[1] Their best guides were the constitutions of the several states, which furnished most striking expressions, and regulations approved by long experience. There is neither record nor personal narrative of their proceedings, though they were invested with the largest constructive powers; but the conduct of its several members may be determined by light reflected from their own words and actions before and after. Meanwhile the interest and anxiety of the country were on the increase. "If what the convention recommend should be rejected," so wrote Monroe to Jefferson the day after the adjournment, "they will complete our ruin. But I trust that the presence of General Washington will overawe and keep under the demon of party, and that the signature of his name to the result of their deliberations will secure its passage through the Union." "The weight of General Washington is very great in America," wrote Grayson to Monroe, "but I hardly think it sufficient to induce the people to pay money or part with power."[2]

[1] Wilson in Gilpin, 1249; Elliot, 885, and Rutledge in Gilpin, 1284; Elliot, 408.

[2] Grayson to Monroe, 29 May, 1787. MS.

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CHAPTER VI.

THE COLONIAL SYSTEM OF THE UNITED STATES.

CHAP. VI.

BEFORE the federal convention had referred its resolutions to a committee of detail, an interlude in congress was shaping the character and destiny of the United States of America. Sublime and humane and eventful in the history of mankind as was the result, it will take not many words to tell how it was brought about. For a time wisdom and peace and justice dwelt among men, and the great ordinance, which could alone give continuance to the union, came in serenity and stillness. Every man that had a share in it seemed to be led by an invisible hand to do just what was wanted of him; all that was wrongfully undertaken fell to the ground to wither by the wayside; whatever was needed for the happy completion of the mighty work arrived opportunely, and just at the right moment moved into its place.

By the order of congress a treaty was to be held in January, 1786, with the Shawnees, at the mouth of the Great Miami. Monroe, who had been present as a spectator at the meeting of the United States com-

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missioners with the representatives of the Six Nations at Fort Stanwix, in 1784, desired to attend this meeting with a remoter tribe. He reached Fort Pitt, and with some of the American party began the descent of the Ohio; but, from the low state of the water, he abandoned the expedition at Limestone, and made his way to Richmond through Kentucky and the wilderness. As the result of his enquiries on the journey, he took with him to congress the opinion that a great part of the western territory, especially that near Lakes Michigan and Erie, was miserably poor; that the land on the Mississippi and the Illinois consisted of extensive plains which had not a single bush on them, and would not have for ages; that the western settlers, in many of the most important objects of a federal government, would be either opposed to the interests of the old states or but little connected with them. He disapproved the formation of more than five states in the territory; but he adhered to the principle of Jefferson, that they ought as soon as possible to take part in governing themselves, and at an early day share "the sovereignty, freedom, and independence" of the other states of the confederacy. CHAP. VI.

In the course of the winter the subject of the division of the western territory into states was, on the motion of Monroe, referred to a grand committee. Its report, which was presented on the twenty-fourth of March, traced the division of the territory into ten states to the resolution of congress of September, 1780, by which no one was to contain less territory than one hundred nor more than one hundred and fifty

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CHAP. VI.

miles square. This resolution had controlled the ordinance of April, 1784; and as the first step toward a reform, every part of that ordinance which conflicted with the power of congress to divide the territory into states according to its own discretion was to be repealed.[1]

In a further report it was found that Virginia had embodied the resolve of congress of September, 1780, into its cession of its claims to the land north-west of the Ohio. It, therefore, proposed that Virginia should be asked to revise its act of cession.[2]

At this stage of the proceedings Dane made a successful motion to raise a committee for considering and reporting the form of a temporary government for the western states.[3] Its chairman was Monroe, with Johnson and King of New England, John Kean and Charles Pinckney of South Carolina, as his associates. On the tenth of May this committee read their report. It asked the consent of Virginia to a division of the territory into not less than two nor more than five states; presented a plan for their temporary colonial government; and promised them admission into the confederacy on the principle of the ordinance of Jefferson. Not one word was said of a restriction on slavery. No man liked better than

[1] This first report of the grand committee is found in Reports of Committees, Papers of Old Congress, xxx. 75, in the State Department, and is endorsed as having been "read 24th of March, 1780, to be considered Thursday, March 30th."

[2] This second report of the grand committee is found likewise in vol. xxx. 79 and following, of Papers of Old Congress; but it has no endorsement as to the time when it was entered, read, or considered.

[3] The day on which this motion was made is not given, nor is the motion entered in the Journal. It was probably in April. We get the fact from page 85 of vol. xxx. of the Papers of the Old Congress.

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Monroe to lean for support on the minds and thoughts of others. He loved to spread his sails to a favoring breeze, but in threatening weather preferred quiet under the shelter of his friends. When Jefferson, in 1784, moved a restriction on slavery in the western country from Florida to the Lake of the Woods, Monroe was ill enough to be out of the way at the division. When King in the following year revived the question, he was again absent at the vote; now, when the same subject challenged his attention, he was equally silent.

At first Monroe flattered himself that his report was generally approved;[1] but no step was taken toward its adoption. All that was done lastingly for the West by this congress was the fruit of independent movements. On the twelfth of May, at the motion of Grayson seconded by King, the navigable waters leading into the Mississippi and the St. Lawrence, and the carrying places between them, were declared to be common highways, forever free to all citizens of the United States, without any tax, impost, or duty.

The assembly of Connecticut, which in the same month held a session, was resolved on opening a land office for the sale of six millions of acres west of the Pennsylvania line which their state had reserved in its cession of all further claims by charter to western lands. The reservation was not excessive in extent; the right of Connecticut under its charter had been taken away by an act of the British parliament of which America had always denied the validity.

[1] Monroe to Jefferson, New York, 11 May, 1786. MS.

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CHAP. VI.

The federal constitution had provided no mode of settling a strife between a state and the United States; a war would cost more than the land was worth.[1] Grayson ceased his opposition; and on the fourteenth of the following September congress accepted the deed of cession by which Connecticut was confirmed in the possession of what was called her "western reserve." The compact establishment of the culture of New England in that district had the most beneficent effect on the character of Ohio and the development of the union.

For diminishing the number of the states to be formed out of the western territory, Monroe might hope for a favorable hearing. At his instance the subject was referred to a grand committee, which on the seventh of July reported in favor of obtaining the assent of Virginia to the division of the territory north-west of the Ohio into not less than two nor more than five states.

With singular liberality Grayson proposed to divide the country at once into not less than five states. He would run a line east and west so as to touch the most southern part of Lake Michigan, and from that line draw one meridian line to the western side of the mouth of the Wabash, and another to the western side of the mouth of the Great Miami, making three states between the Mississippi and the western lines of Virginia and Pennsylvania. The peninsula of Michigan was to form a fourth state; the fifth would absorb the country between Lake Michigan, Lake Superior, and the line of water to the northern

[1] Grayson to Madison, 28 May, 1786.

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boundary in the Lake of the Woods on the one side and the Mississippi on the other. This division, so unfavorable to southern influence, was voted for by Maryland, Virginia, North Carolina, and Georgia, South Carolina being divided; the North did not give one state in its favor; and the motion was lost. It was then agreed that the district should ultimately be divided at least into three states; the states and individuals being unanimous, except that Grayson adhered to his preference of five.[1]

The cause which arrested the progress of the ordinance of Monroe was a jealousy of the political power of the western states, and a prevailing desire to impede their admission into the union. For himself he remained on this point true to the principle of Jefferson; to whom he explained with accurate foresight the policy toward which congress was drifting.

When the inhabitants of the Kaskaskias presented a petition for the organization of a government over their district, Monroe took part in the answer, that congress had under consideration the plan of a temporary government for their district, in which it would manifest a due regard to their interest.[2] This is the last act of congress relating to the West in which Monroe participated. With the first Monday of the coming November the rule of rotation would exclude him from congress.

During the summer Kean was absent from con- 1786
gress, and his place on the committee was taken by

[1] Journals of Congress, iv. 662, 663.

[2] Journals of Congress, iv. 688, 689.

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CHAP. VI. 1786. Melancthon Smith,[1] of New York. In September Monroe and King went on a mission from congress to the legislature of Pennsylvania, and their places were filled by Henry of Maryland and Dane. The committee with its new members represented the ruling sentiment of the house; and its report, which was made on the nineteenth of September, required of a western state before its admission into the union a population equal to one thirteenth part of the citizens of the thirteen original states according to the last preceding enumeration. Had this report been adopted, and had the decennial census of the population of territories and states alone furnished the rule, Ohio must have waited twenty years longer for admission into the union; Indiana would have been received only after 1850; Illinois only after 1860; Michigan could not have asked admittance till after the census of 1880; and Wisconsin must still have remained, and hopelessly, a colonial dependency.

Sept. 30. The last day of September, 1786, was given to the consideration of the report; but before anything was decided the seventh congress expired.

Nov. 1787. Feb. The new congress, to which Madison and Richard Henry Lee, as well as Grayson and Edward Carrington, were sent by Virginia, had no quorum till February, 1787, and then was occupied with preparations for the federal convention and with the late insurrection in Massachusetts. But the necessity of providing for a territorial government was urgent; and near the end of April the committee of the late con-

[1] The name of Smith as one of the committee occurs in Aug., 1786. Journals of Congress, iv. 688.

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gress revived its project of the preceding September. CHAP. VI.
On the ninth of May it was read a second time; the
clause which would have indefinitely delayed the 1787.
admission of a western state was cancelled;[1] a new
draft of the bill as amended was directed to be tran-
scribed, and its third reading was made the order of
the next day,[2] when of a sudden the further progress
of the ordinance was arrested.

Rufus Putnam, of Worcester County, Massachu- 1788
setts, who had drawn to himself the friendly es-
teem of the commander-in-chief, and before the break-
ing up of the army received the commission of
brigadier-general, was foremost in promoting a peti-
tion to congress of officers and soldiers of the revolu-
tion for leave to plant a colony of the veterans of the
army between Lake Erie and the Ohio, in townships
of six miles square, with large reservations "for the
ministry and schools." For himself and his associates June 16
he entreated Washington to represent to congress the
strength of the grounds on which their petition rested.[3]
Their unpaid services in the war had saved the inde-
pendence and the unity of the land; their settlement
would protect the frontiers of the old states against
alarms of the savages; their power would give safety
along the boundary line on the north; under their
shelter the endless procession of emigrants would
take up its march to fill the country from Lake Erie
to the Ohio.

With congress while it was at Princeton, and again

[1] This appears from the erasures on the printed bill, which is still preserved.

[2] Journals of Congress, iv. 747.

[3] S. P. Hildreth, Pioneer Settlers of Ohio, 88. Walker, 29. Letter of Rufus Putnam, 16 June, 1783.

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CHAP. VI. after its adjournment to Annapolis, Washington exerted every power of which he was master to bring about a speedy decision. The members with whom he conversed acquiesced in the reasonableness of the petition and approved its policy, but they excused their inertness by the want of a cession of the northwestern lands.

1783.

1784. March. When in March, 1784, the lands were ceded by Virginia, Rufus Putnam again appeals to Washington: "You are sensible of the necessity as well as the possibility of both officers and soldiers fixing themselves in business somewhere as soon as possible; many of them are unable to lie long on their oars;" but congress did not mind the spur. In the next year, under the land ordinance of Grayson, Rufus Putnam was elected a surveyor of land in the western territory for Massachusetts; and on his declining the service, another brigadier-general, Benjamin Tupper, of Chesterfield, in the same state, was appointed in his stead.[1] Tupper repaired to the West to superintend the work confided to him; but disorderly Indians prevented the survey; without having advanced farther west than Pittsburgh, he returned home; and, like almost every one who caught glimpses of the West, he returned with a mind filled with the brightness of its promise.

1785.

Toward the end of 1785, Samuel Holden Parsons, the son of a clergyman in Lyme, Connecticut, a graduate of Harvard, an early and a wise and resolute patriot, in the war a brigadier-general of the regular army, travelled to the West on public business, de-

[1] Journals of Congress, iv. 520, 527, 547.

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scended the Ohio as far as its falls, and, full of the idea of a settlement in that western country, wrote, before the year went out, that on his way he had seen no place which pleased him so much for a settlement as the country on the Muskingum.[1] CHAP. VI. 1785.

In the treaty at Fort Stanwix, in 1784, the Six Nations renounced to the United States all claims to the country west of the Ohio. A treaty of January, 1785, with the Wyandotte, Delaware, Chippewa, and Ottawa nations, released the country east of the Cuyahoga, and all the lands on the Ohio, south of the line of portages from that river to the Great Miami and the Maumee. On the last day of January, 1786, George Rogers Clark, the conqueror of the Northwest, Richard Butler, late a colonel in the army, and Samuel Holden Parsons, acting under commissions from the United States, met the Shawnees at the mouth of the Great Miami, and concluded with them a treaty by which they acknowledged the sovereignty of the United States over all their territory as described in the treaty of peace with Great Britain, and for themselves renounced all claim to property in any land east of the main branch of the Great Miami.[2] In this way the Indian title to southern Ohio, and all Ohio to the east of the Cuyahoga, was quieted. 1784. 1785. 1786. Jan. 31. 1787.

Six days before the signature of the treaty with the Shawnees, Rufus Putnam and Benjamin Tupper, after a careful consultation at the house of Putnam, Jan. 25.

[1] William Frederick Poole in N. A. Review, liii. 331.

[2] U. S. Statutes at Large, vii. 15, 16–18, 26.

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CHAP. VI. 1787. in Rutland, published in the newspapers of Massachusetts an invitation to form "the Ohio Company" for purchasing and colonizing a large tract of land between the Ohio and Lake Erie. The men chiefly engaged in this enterprise were husbandmen of New England, nurtured in its schools and churches, laborious and methodical, patriots who had been further trained in a seven years' war for freedom. Have these men the creative power to plant a commonwealth? And is a republic the government under which political organization for great ends is the most easy and the most perfect?

To bring the Ohio company into formal existence, all persons in Massachusetts who wished to promote the scheme were invited to meet in their respective counties on Wednesday, the fifteenth day of the next February, and choose delegates to meet in Boston on Wednesday, the first day of March, 1786, at ten of the clock, then and there to consider and determine on a general plan of association for the company. On the appointed day and hour, representatives of eight counties of Massachusetts came together; among others, from Worcester county, Rufus Putnam; from Suffolk, Winthrop Sargent; from Essex, Manasseh Cutler, lately a chaplain in the army, then minister at Ipswich; from Middlesex, John Brooks; from Hampshire, Benjamin Tupper. Rufus Putnam was chosen chairman of the meeting, Winthrop Sargent its secretary. On the third of March, Putnam, Cutler, Brooks, Sargent, and Cushing, its regularly appointed committee, reported an association of a thousand shares, each of one thousand dollars in continental certifi-

Feb.

March.

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cates, which were then the equivalent of one hundred and twenty-five dollars in gold, with a further liability to pay ten dollars in specie to meet the expenses of the agencies. Men might join together and subscribe for one share.

A year was allowed for subscription. At its end, on the eighth of March, 1787, a meeting of the subscribers was held at Boston, and Samuel Holden Parsons, Rufus Putnam, and Manasseh Cutler were chosen directors to make application to congress for a purchase of lands adequate to the purposes of the company.

March.

The basis for the acquisition of a vast domain was settled by the directors, and Parsons repaired to New York to bring the subject before congress. On the same day on which the act for the government of the North-west was ordered to a third reading on the morrow, the memorial of Samuel Holden Parsons, agent of the associators of the Ohio company, bearing date only of the preceding day, was presented.[1] It interested every one. For vague hopes of colonization, here stood a body of hardy pioneers; ready to lead the way to the rapid absorption of the domestic debt of the United States; selected from the choicest regiments of the army; capable of self-defence; the protectors of all who should follow them; men skilled in the labors of the field and of artisans; enterpris-

May 9.

[1] The memorial of Parsons is in his own handwriting. It is contained in vol. xli. of Papers of the Old Congress, vol. viii. 226, of the Memorials. It is endorsed in the handwriting of Roger Alden, "Memorial of Samuel H. Parsons, agent of the associators for the purchase of lands on the Ohio. Read May ninth, 1787. Referred to Mr. Carrington, Mr. King, Mr. Dane, Mr. Madison, Mr. Benson. Acted on July 23, 1787. See committee book."

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CHAP. VI. ing and laborious; trained in the severe morality and strict orthodoxy of the New England villages of that
1787. May 9. day. All was changed. There was the same difference as between sending out recruiting officers and giving marching orders to a regular corps present with music and arms and banners. On the instant the memorial was referred to a committee consisting of Edward Carrington, Rufus King, Nathan Dane, Madison, and Egbert Benson—a great committee: its older members of congress having worthy associates in Carrington and Benson, of whom nothing was spoken but in praise of their faultless integrity and rightness of intention.

July 4. On the fourth day of July, 1787, for the first time since the eleventh of May, congress had a quorum. There were present from the North, Massachusetts, New York, and New Jersey; from the South, Virginia, the two Carolinas, and Georgia, soon to be joined by Delaware. The South had all in its own way. The president of congress being absent, William Grayson, of Virginia, was elected the temporary president.

5. On Friday, the fifth, there was no quorum. In the evening arrived Manasseh Cutler, one of the three agents of the Ohio company, sent to complete the negotiations for western lands. On his way to New York Cutler had visited Parsons, his fellow-director, and now acted in full concert with him. Carrington gave the new envoy a cordial welcome, introduced him to members on the floor of congress, devoted immediate attention to his proposals, and al-
10. ready, on the tenth of July, his report granting to

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the Ohio company all that they desired was read in congress.[1]

1787. July 10.

This report, which is entirely in the handwriting of Edward Carrington, assigns as gifts a lot for the maintenance of public schools in every township; another lot for the purpose of religion; and four complete townships, "which shall be good land, and near the centre," for the purpose of a university. The land, apart from the gifts, might be paid for in loan office certificates reduced to specie value or certificates of liquidated debts of the United States. For bad land, expenses of surveying, and incidental circumstances, the whole allowance was not to exceed one third of a dollar an acre. The price, therefore, was about sixty-six cents and two thirds for every acre, in United States certificates of debt. But as these were then worth only twelve cents on the dollar, the price of land in specie was between eight and nine cents an acre.

On the ninth of July Richard Henry Lee took his seat in congress. His presence formed an era. On that same day the report for framing a western government, which was to have had its third reading on the tenth of May, was referred to a new commit-

[1] The business of congress was done with closed doors and with rigid secrecy. Hence some slight misconceptions in the journal of Cutler. N. A. Review, liii. 384, etc. He says that on July sixth a committee was appointed to consider his proposal. The committee was appointed not on July sixth, but on the ninth of May, and was not changed. Its report is to be found in vol. v. of the Reports of Committees, and in Old Papers of Congress, xix. 27. The report is in the handwriting of Edward Carrington, and by his own hand is endorsed: "Report of Committee on Memorial of S. H. Parsons." Mr. Thomson's hand endorses further: "Report of Mr. Carrington, Mr. King, Mr. Dane, Mr. Madison, Mr. Benson. Read July 10th, 1787. Order of the day for the eleventh." On what day it was presented is not recorded.

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CHAP. VI. 1787. July.

tee[1] of seven, composed of Edward Carrington and Dane, Richard Henry Lee, Kean of South Carolina, and Melancthon Smith of New York. There were then in congress five southern states to three of the North; on the committee two northern men to three from the South, of whom the two ablest were Virginians.

The committee, animated by the presence of Lee, went to its work in good earnest. Dane, who had been actively employed on the colonial government for more than a year, and for about ten months had served on the committee which had the subject in charge, acted the part of scribe. Like Smith and Lee, he had opposed a federal convention for the reform of the constitution. The three agreed very well together, though Dane secretly harbored the wish of finding in the West an ally for "eastern politics." They were pressed for time, and found it necessary finally to adopt the best system they could get. At first they took up the plan reported by Monroe; but new ideas were started; and they worked with so much

11. industry that on the eleventh of July their report of an ordinance for the government of the territory of the United States north-west of the river Ohio was read for its first time in congress.

The ordinance embodied the best parts of the work of their predecessors. For the beginning they made the whole north-western territory one district, of which all the officers appointed by congress were

[1] In the Journals of Congress, iv. 751, for the 11th of July, mention is made that the report of a committee touching the temporary government for the western territory had been referred to the committee. I find an endorsement in the State Department on one of the papers that the day on which that reference was made was July ninth.

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to take an oath of fidelity as well as of office. Jefferson, in his ordinance for the sale of lands, had taken care for the equal descent of real estate, as well as other property, to children of both sexes. This was adopted and expressed in the forms of the laws of Massachusetts. The rule of Jefferson was followed in requiring no property qualification for an elector; but was not extended, as Jefferson had done, to the officers to be elected.

The committee then proceeded to establish articles of compact, not to be repealed except by the consent of the original states and the people and states in the territory. Among these, as in Massachusetts and Virginia, were freedom of religious worship and of religious sentiments; and various articles from the usual bills of rights of the states.

The next clause bears in every word the impress of the mind of Richard Henry Lee. "No law ought ever to be made in said territory that shall in any manner whatever interfere with or conflict with private contracts or engagements, *bona fide* and without fraud previously formed." "This regulation related particularly to the abuse of paper money."[1]

[1] "Cette disposition porte particulièrement sur l'abus du papier monnaie." Otto to Montmorin, successor of Vergennes at Versailles, 20 July, 1787. MS. R. H. Lee to George Mason, Chantilly, 15 May, 1787. Life of Richard Henry Lee, ii. 71–73. He hated paper money, and therefore had entreated his friends in the convention at Philadelphia to take from the states the right of issuing it. Moreover, he piqued himself upon the originality of his suggestion: "a proposition that I have not heard mentioned." Compare Lee to Washington, in Sparks's Letters to Washington, iv. 174. More than forty-two years later Dane claimed for himself "originality" in regard to the clause against impairing contracts [Massachusetts Historical Society Proceedings, 1867 to 1869, p. 479], but contemporary evidence points to R. H. Lee as one with whom he must at least divide the honor.

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The third article recognised, like the constitution of Massachusetts, and like the letter of Rufus Putnam of 1783,[1] that religion, morality, and knowledge are necessary to good government and the happiness of mankind, and declared that schools and the means of education shall forever be encouraged.

The utmost good faith was enjoined toward the Indians; their lands and property, their rights and liberty, were ordered to be protected by laws founded in justice and humanity; so that peace and friendship with them might ever be preserved.

The new states, by compact which neither party alone could change, became, and were forever to remain, a part of the United States of America. The waters leading into the Mississippi and St. Lawrence, and the carrying places between them, according to the successful motion of Grayson and King, were made common highways and forever free. The whole territory was divided into three states only, the population required for the admission of any one of them to the union was fixed at sixty thousand; but both these clauses were subject to the future judgment of congress. The prayer of the Ohio company had been but this: "The settlers shall be under the immediate government of congress in such mode and for such time as congress shall judge proper;" the ordinance contained no allusion to slavery; and in that form it received its first reading and was ordered to be printed.

Grayson, then presiding officer of congress, had always opposed slavery. Two years before he had

[1] The proposals presented by Cutler are in the handwriting of Parsons.

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wished success to the attempt of King for its restriction; and everything points to him[1] as the immediate cause of the tranquil spirit of disinterested statesmanship which took possession of every southern man in the assembly. Of the members of Virginia, Richard Henry Lee had stood against Jefferson on this very question; but now he acted with Grayson, and from the states of which no man had yielded before, every one chose the part which was to bring on their memory the benedictions of all coming ages. Obeying an intimation from the south, Nathan Dane copied from Jefferson the prohibition of involuntary servitude in the territory, and quieted alarm by adding from the report of King a clause for the delivering up of the fugitive slave. This at the second reading of the ordinance he moved as a sixth article of compact, and on the thirteenth day of July, 1787, the great statute forbidding slavery to cross the river Ohio was passed by the vote of Georgia, South Carolina, North Carolina, Virginia, Delaware,

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[1] William Grayson voted for King's motion of reference, by which the prohibition of slavery was to be immediate; he expressed the hope that congress would be liberal enough to adopt King's motion; he gave, more than any other man in congress, efficient attention to the territorial questions; in 1785 he framed and carried through congress an ordinance for the sale of western lands; his influence as president of congress was great; his record as against slavery is clearer than that of any other southern man who was present in 1787. The assent of Virginia being requisite to the validity of the ordinance, he entreated Monroe to obtain that consent. The consent was not obtained. Though in shattered health, he then became a member of the next Virginia legislature, and was conspicuous in obtaining the assent of Virginia. Add to this in the debate on excluding slavery from the territory of Arkansas, Hugh Nelson, of Virginia, was quoted as having ascribed the measure to Grayson. Mr. Austin Scott fell upon, and was so good as to point out to me, this passage in Annals of Congress for February, 1819, column 1225. Thus far no direct report of Nelson's speech has been found.

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New Jersey, New York, and Massachusetts, all the states that were then present in congress. Pennsylvania and three states of New England were absent; Maryland only of the South. Of the eighteen members of congress who answered to their names, every one said "aye" excepting Abraham Yates, the younger, of New York, who insisted on leaving to all future ages a record of his want of judgment, right feeling, and common sense.

Thomas Jefferson first summoned congress to prohibit slavery in all the territory of the United States; Rufus King lifted up the measure when it lay almost lifeless on the ground, and suggested the immediate instead of the prospective prohibition; a congress composed of five southern states to one from New England, and two from the middle states, headed by William Grayson, supported by Richard Henry Lee, and using Nathan Dane as scribe, carried the measure to the goal in the amended form in which King had caused it to be referred to a committee; and, as Jefferson had proposed, placed it under the sanction of an irrevocable compact.[1]

The ordinance being passed, the terms of a sale between the United States and Manasseh Cutler and Winthrop Sargent, as agents of the Ohio company, were rapidly brought to a close, substantially on the basis of the report of Carrington.[2]

The occupation of the purchased lands began immediately, and proceeded with the order, courage, and

[1] See vol. i., pages 417-419. See also Nathan Dane to Rufus King, in N. Y. Tribune of 28 Feb., 1855, or below, pages 430, 431.

[2] Compare Carrington's report with its amended form in Journals of Congress, iv. Appendix 17.

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regularity of men accustomed to the discipline of soldiers. "No colony in America," said Washington in his joy, "was ever settled under such favorable auspices as that which has just commenced at the Muskingum. Information, property, and strength will be its characteristics. I know many of the settlers personally, and there never were men better calculated to promote the welfare of such a community."[1] Before a year had passed by, free labor kept its sleepless watch on the Ohio.

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But this was not enough. Virginia had retained the right to a very large tract north-west of the Ohio; and should she consent that her own sons should be forbidden to cross the river with their slaves to her own lands?

It was necessary for her to give her consent before the ordinance could be secure; and Grayson earnestly entreated Monroe to gain that consent before the year should go out. But Monroe was not equal to the task, and nothing was accomplished.

At the next election of the assembly of Virginia, Grayson, who was not a candidate in the preceding or the following year, was chosen a delegate; and then a powerful committee, on which were Carrington, Monroe, Edmund Randolph, and Grayson, successfully brought forward the bill by which Virginia confirmed the ordinance for the colonization of all the territory then in the possession of the United States by freemen alone.

The white men of that day everywhere held themselves bound to respect and protect the black men in

[1] Sparks, ix. 385.

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their liberty and property. The suffrage was not as yet regarded as a right incident to manhood, and could be extended only according to the judgment of those who were found in possession of it. When

1785. in 1785 an act providing for the gradual abolition of slavery within the state of New York, while it placed the children born of slaves in the rank of citizens, deprived them of the privileges of electors, the council of revision, Clinton and Sloss Hobart being present, and adopting the report of Chancellor Livingston, negatived the act, because, "in violation of the rules of justice and against the letter and spirit of the constitution," it disfranchised the black, mulatto, and mustee citizens who had heretofore been entitled to a vote. The veto prevailed;[1] and in the state of New York the colored man retained his impartial right of suffrage till the constitution of 1821. Virginia, which continued to recognise free negroes

1788. as citizens, in the session in which it sanctioned the north-western ordinance, enacted that any person who should be convicted of stealing or selling any free person for a slave shall suffer death without benefit of clergy.[2] This was the protection which Virginia, when the constitution was forming, extended to the black man.

[1] Street's New York Council of Revision, 268, 269.

[2] Hening, xii. 531.

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CHAPTER VII.

THE CONSTITUTION IN DETAIL. THE POWERS OF CONGRESS.

6 AUGUST TO 10 SEPTEMBER, 1787.

THE twenty-three resolutions of the convention were distributed by the committee of detail into as many articles, which included new subjects of the gravest moment. On the sixth of August every member of the convention received a copy of this draft of a constitution, printed on broadsides in large type, with wide spaces and margin for minutes of amendments.[1] The experience of more than two months had inspired its members with the courage and the disposition to make still bolder grants of power to the union. 1787. Aug. 6.

The instrument[2] opens with the new and sublime words: "We, the people of the states," enumerating New Hampshire and every other of the thirteen, "do ordain, declare, and establish the following constitu-

[1] Of these copies six have been examined, including that of the president of the convention, and, as is believed, that of its secretary.

[2] Gilpin, 1226; Elliot, 376.

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tion for the government of ourselves and our posterity."[1]

1787. Aug. 6.

When "the good people" of thirteen colonies, each having an organized separate home government, and each hitherto forming an integral part of one common empire, jointly prepared to declare themselves free and independent states, it was their first care to ascertain of whom they were composed. The question they agreed to investigate and decide by a joint act of them all. For this end congress selected from its numbers five of its ablest jurists and most trusted statesmen: John Adams of Massachusetts, Thomas Jefferson of Virginia, Edward Rutledge of South Carolina, James Wilson of Pennsylvania, and Robert R. Livingston of New York; the fairest representation that could have been made of New England, of the South, and of the central states. The committee thought not of embarrassing themselves with the introduction of any new theory of citizenship; they looked solely for existing facts. They found colonies with well-known territorial boundaries; and inhabitants of the territory of each colony; and their unanimous report, unanimously accepted by congress, was: "All persons abiding within any of the United Colonies, and deriving protection from the laws of the same, owe allegiance to the said laws, and are members of such colony."[2] From "persons making a visitation or temporary stay," only a secondary allegiance was held to be due.

[1] "We the people of Massachusetts—do—ordain and establish the following — constitution of civil government for ourselves and posterity." Preamble to the first constitution of Massachusetts.

[2] Journals of Congress for 5, 17, and 24 June, 1776.

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When the articles of confederation were framed with the grand principle of intercitizenship, which gave to the American confederation a superiority over every one that preceded it, the same definition of membership of the community was repeated, except that intercitizenship was not extended to the pauper, or the vagabond, or the fugitive from justice, or the slave. And now these free inhabitants of every one of the United States, this collective people, proclaim their common intention, by their own innate life, to institute a general government, to whose existence they set no limit.

For the name of the government they chose "The United States of America"; language, which expressed unity in plurality and was endeared by usage, being preferred to any new description.

That there might be no room to question where paramount allegiance would be due, the second article declared: "The government shall consist of supreme legislative, executive, and judicial powers."[1]

To maintain that supremacy, the legislature of the United States was itself authorized to carry into execution all powers vested by this new constitution in the government of the United States, or in any of its departments or offices.[2] The name congress was adopted to mark the two branches of the legislature, which were now named the house of representatives and the senate; the house still taking precedence as the first branch. The executive was henceforward known as "the President."

The scheme of erecting a general government on

[1] Gilpin, 1226; Elliot, 877. [2] Gilpin, 1233; Elliot, 879.

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CHAP. VII. 1787. Aug. 6. the authority of the state legislatures was discarded; and the states were enjoined to prescribe for the election of the members of each branch, regulations subject to be altered by the legislature of the United States; but the convention itself, in its last days, unanimously reserved to the states alone the right to establish the places for choosing senators.[1]

To ensure the continuous succession of the government, the legislature was ordered to meet on the first Monday in December in every year,[2] "unless," added the convention, "congress should by law appoint a different day."

To complete the independence of congress, provision needed to be made for the support of its members. The committee of detail left them to be paid for their services by their respective states; but this mode would impair the self-sustaining character of the
14. government. Ellsworth, avowing a change of opinion, moved that they should be paid out of the Treasury of the United States.[3] "If the general legislature," said Dickinson, "should be left dependent on the state legislatures, it would be happy for us if we had never met in this room." The motion of Ellsworth was carried by nine states against Massachusetts and South Carolina.[4] The compensation which he and Sherman would have fixed at five dollars a day, and the same for every thirty miles of travel, was left "to be ascertained by law."[5]

In the distribution of representatives among the

[1] Gilpin, 1229, 1279, 1281, 1282, 1546, 1608; Elliot, 377, 401, 402, 559.
[2] Gilpin, 1227; Elliot, 377.
[3] Gilpin, 931, 1326; Elliot, 226, 425.
[4] Gilpin, 1329; Elliot, 427.
[5] Gilpin, 1330; Elliot, 427.

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Bancroft, Hist. of the Formation of the Const. (1889) Vol. 2

states no change was made; but to the rule of one member of the house for every forty thousand inhabitants Madison objected that in the coming increase of population it would render the number excessive. "The government," replied Gorham, "will not last so long as to produce this effect. Can it be supposed that this vast country, including the western territory, will one hundred and fifty years hence remain one nation?"[1] The clause was for the time unanimously made to read: "not exceeding one for every forty thousand." 1787. Aug. 8.

As the first qualification for membership of the legislature, it was agreed, and it so remains, that the candidate at the time of his election should be an inhabitant of the state in which he should be chosen. It is not required that a representative should reside in the district which he may be elected to represent.

Citizenship was indispensable; and, before a comer from a foreign country could be elected to the house, he must, according to the report, have been a citizen of the United States for at least three years; before eligibility to the senate, for at least four. "I do not choose," said Mason, "to let foreigners and adventurers make laws for us and govern us without that local knowledge which ought to be possessed by the representative." And he moved for seven years instead of three.[2] To this all the states agreed except Connecticut.

From respect to Wilson, who was born and educated in Scotland, the subject was taken up once more. Gerry, on the thirteenth, wished none to be 13.

[1] Gilpin, 1263; Elliot, 892. [2] Gilpin, 1256, 1257; Elliot, 889.

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CHAP. VII. elected but men born in the land. Williamson preferred a residence of nine years to seven.[1] Hamilton
1787. Aug. 13. proposed to require only citizenship and inhabitancy,[2] and Madison seconded him. In proof of the advantage of encouraging emigration, Wilson cited Pennsylvania, the youngest settlement on the Atlantic except Georgia, yet among the foremost in population and prosperity; almost all the general officers of her line in the late army and three of her deputies to the convention—Robert Morris, Fitzsimons, and himself—were not natives.[3] But Connecticut, Pennsylvania, Maryland, and Virginia, which voted with Hamilton and Madison, were overpowered by the seven other states, of which, on this question, New Hampshire, South Carolina, and Georgia were the most stubborn.[4]

Gouverneur Morris desired that the proviso of seven years should not affect any person then a citizen. On this candid motion New Jersey joined the four more liberal states; but Rutledge, Charles Pinckney, Mason, and Baldwin spoke with inveterate tenacity for the disfranchisement against Gorham, Madison, Morris, and Wilson; and the motion was lost by five states to six.[5]

For a senator, citizenship for nine years was required; Connecticut, Pennsylvania, and Maryland
16. alone finding the number of years excessive.[6] Three days later, power was vested in the legislature of the United States to establish a uniform rule of naturalization throughout the United States.[7]

[1] Gilpin, 1299; Elliot, 411.
[2] Gilpin, 1299, 1300; Elliot, 411.
[3] Gilpin, 1300, 1301; Elliot, 412.
[4] Gilpin, 1301; Elliot, 412.
[5] Gilpin, 1301–1305; Elliot, 412–414.
[6] Gilpin, 1305; Elliot, 414.
[7] Elliot, i. 245.

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CHAP. VII. 1787. Aug. 10.

The committee of detail had evaded the question of a property qualification for the members of the federal legislature and other branches of the government by referring it to legislative discretion. Charles Pinckney, who wished to require for the president a fortune of not less than a hundred thousand dollars, for a judge half as much, and a like proportion for the members of the national legislature, ventured no more than to move generally that a property qualification should be required of them all.[1] Franklin made answer: "I dislike everything that tends to debase the spirit of the common people. If honesty is often the companion of wealth, and if poverty is exposed to peculiar temptation, the possession of property increases the desire for more. Some of the greatest rogues I was ever acquainted with were the richest rogues. Remember, the scripture requires in rulers that they should be men hating covetousness. If this constitution should betray a great partiality to the rich, it will not only hurt us in the esteem of the most liberal and enlightened men in Europe, but discourage the common people from removing to this country."[2] The motion was rejected by a general "no." The question was for a while left open, but the constitution finally escaped without imposing a property qualification on any person in the public employ.

Various efforts were made by Gorham, Mercer, King, and Gouverneur Morris to follow the precedent of the British parliament, and constitute a less number than a majority in each house sufficient for a

[1] Gilpin, 1283; Elliot, 402, 403. [2] Gilpin, 1284, 1285; Elliot, 403.

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CHAP. VII. 1787. Aug. 10. quorum, lest the secession of a few members should fatally interrupt the course of public business. But, by the exertions of Wilson and Ellsworth, Randolph and Madison, power was all but unanimously given to each branch to compel the attendance of absent members, in such manner and under such penalties as each house might provide. Moreover, each house received the power, unknown to the confederacy, to expel a member with the concurrence of two thirds of those voting.[1]

6. What should distinguish the "electors" of the United States from their citizens? the constituency of the house of representatives of the United States from the people? The report of the committee ran thus: "The qualifications of the electors shall be the same, from time to time, as those of the electors in the several states of the most numerous branch of
7. their own legislatures."[2] Gouverneur Morris desired to restrain the right of suffrage to freeholders; and he thought it not proper that the qualifications of the national legislature should depend on the will of the states. "The states," said Ellsworth, "are the best judges of the circumstances and temper of their own people."[3] "Eight or nine states," remarked Mason, "have extended the right of suffrage beyond the freeholders. What will the people there say if any should be disfranchised?"[4] "Abridgments of the right of suffrage," declared Butler, "tend to revolution." "The freeholders of the country," replied Dickinson, "are the best guardians of liberty;

[1] Gilpin, 1291; Elliot, 407.
[2] Gilpin, 1227; Elliot, 377.
[3] Gilpin, 1250; Elliot, 386.
[4] Ibid.

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CHAP. VII. 1787. Aug. 7.

and the restriction of the right to them is a necessary defence against the dangerous influence of those multitudes without property and without principle, with which our country, like all others, will in time abound. As to the unpopularity of the innovation, it is chimerical. The great mass of our citizens is composed at this time of freeholders, and will be pleased with it." "Ought not every man who pays a tax," asked Ellsworth, "to vote for the representative who is to levy and dispose of his money?"[1] "The time," said Gouverneur Morris, "is not distant when this country will abound with mechanics and manufacturers, who will receive their bread from their employers. Will such men be the secure and faithful guardians of liberty—the impregnable barrier against aristocracy? The ignorant and the dependent can be as little trusted with the public interest as children. Nine tenths of the people are at present freeholders, and these will certainly be pleased with the restriction."[2] "The true idea," said Mason, "is that every man having evidence of attachment to the society, and permanent common interest with it, ought to share in all its rights and privileges." "In several of the states," said Madison, "a freehold is now the qualification. Viewing the subject in its merits alone, the freeholders of the country would be the safest depositories of republican liberty. In future times, a great majority of the people will not only be without property in land, but property of any sort. These will either combine under the influence of their common situation, in which case the

[1] Gilpin, 1251; Elliot, 886. [2] Gilpin, 1252; Elliot, 886, 887.

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rights of property and the public liberty will not be secure in their hands, or, what is more probable, they will become the tools of opulence and ambition; in which case, there will be equal danger on another side."[1] Franklin reasoned against the restriction from the nobleness of character that the possession of the electoral franchise inspires.[2] "The idea of restraining the right of suffrage to the freeholders," said Rutledge, "would create division among the people, and make enemies of all those who should be excluded."[3] The movement of Morris toward a freehold qualification gained no vote but that of Delaware; and the section as reported was unanimously approved.

Each state was therefore left to fix for itself within its own limits its conditions of suffrage; but where, as in New York and Maryland, a discrimination was made in different elections, the convention applied the most liberal rule adopted in the state to the elections of members of congress, accepting in advance any extensions of the suffrage that in any of the states might grow out of the development of republican institutions. Had the convention established a freehold or other qualification of its own, it must have taken upon itself the introduction of this restriction into every one of the states of the union.

On the question of representation the only embarrassment that remained grew out of that part of the report of the committee of detail which sanctioned the perpetual continuance of the slave-trade. Every-

[1] Gilpin, 1253; Elliot, 387.
[2] Gilpin, 1254; Elliot, 388.
[3] Gilpin, 1255; Elliot, 388.

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where, always, by everybody, in statutes alike of Virginia and South Carolina, in speeches, in letters, slavery in those days was spoken of as an evil. Everywhere in the land, the free negro always, the slave from the instant of his emancipation, belonged to the class of citizens, though in Virginia, South Carolina and Georgia, and in Delaware, for all except those who before 1787 had already acquired the elective franchise,[1] color barred the way to the ballot-box. The convention did nothing to diminish the rights of black men; and, to the incapacities under which they labored in any of the states, it was careful to add no new one. Madison, in the following February, recommending the constitution for ratification, writes: "It is admitted that, if the laws were to restore the rights which have been taken away, the negroes could no longer be refused an equal share of representation with the other inhabitants."[2] The convention had agreed to the enumeration of two fifths of the slaves in the representative population; but a new complication was introduced by the sanction which the committee of detail had lent to the perpetuity of the slave-trade.

8.

King had hoped for some compromise on the subject of the slave-trade and slavery. "I never can agree," said he, "to let slaves be imported without limitation of time, and then be represented in the national legislature."[3]

Gouverneur Morris then moved that there should be no representation but of "free inhabitants." "I

[1] I so interpret the Delaware statute of 1787.

[2] Federalist, No. liv.

[3] Gilpin, 1261, 1262; Elliot, 391, 392.

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CHAP. VII. 1787. Aug. 8.

never will concur in upholding domestic slavery. It is a nefarious institution. It is the curse of Heaven on the states where it prevails. Compare the free regions of the middle states, where a rich and noble cultivation marks the prosperity and happiness of the people, with the misery and poverty which overspread the barren wastes of Virginia, Maryland, and the other states having slaves. Travel through the whole continent, and you behold the prospect continually varying with the appearance and disappearance of slavery. The moment you leave the eastern states and enter New York, the effects of the institution become visible. Passing through the Jerseys and entering Pennsylvania, every criterion of superior improvement witnesses the change; proceed southwardly, and every step you take through the great regions of slaves presents a desert increasing with the increasing proportion of these wretched beings. Upon what principle shall slaves be computed in the representation? Are they men? Then make them citizens, and let them vote. Are they property? Why, then, is no other property included? The houses in this city are worth more than all the wretched slaves who cover the rice-swamps of South Carolina. The admission of slaves into the representation, when fairly explained, comes to this: that the inhabitant of Georgia and South Carolina who goes to the coast of Africa, and in defiance of the most sacred laws of humanity tears away his fellow-creatures from their dearest connections and damns them to the most cruel bondage, shall have more votes in a government instituted for protection of the rights of

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mankind than the citizen of Pennsylvania or New Jersey, who views with a laudable horror so nefarious a practice. I will add, that domestic slavery is the most prominent feature in the aristocratic countenance of the proposed constitution. The vassalage of the poor has ever been the favorite offspring of aristocracy. And what is the proposed compensation to the northern states for a sacrifice of every principle of right, of every impulse of humanity? They are to bind themselves to march their militia for the defence of the southern states against those very slaves of whom they complain. They must supply vessels and seamen, in case of foreign attack. The legislature will have indefinite power to tax them by excises and duties on imports; both of which will fall heavier on them than on the southern inhabitants. On the other side, the southern states are not to be restrained from importing fresh supplies of wretched Africans, at once to increase the danger of attack and the difficulty of defence; nay, they are to be encouraged to it by an assurance of having their votes in the national government increased in proportion; and are, at the same time, to have their exports and their slaves exempt from all contributions for the public service. I will sooner submit myself to a tax for paying for all the negroes in the United States than saddle posterity with such a constitution."[1] Dayton seconded the motion, that his sentiments on the subject might appear, whatever might be the fate of the amendment.[2] Charles Pinckney "considered the fisheries and the western frontier as more burdensome to

[1] Gilpin, 1263–5; Elliot, 392–3. [2] Gilpin, 1265; Elliot, 393.

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CHAP. VII. 1787. Aug. 8. the United States than the slaves."[1] Wilson thought an agreement to the clause would be no bar to the object of the motion, which itself was premature. New Jersey voted aye, ten states in the negative. So ended the skirmish preliminary to the struggle on the continuance of the slave-trade.

16. Great as was the advance from the articles of the confederacy, the new grants, not less than the old ones, of power to the legislature of the United States to lay taxes, duties, imposts, and excises, and collect them; to regulate foreign and domestic commerce; alone to coin money and regulate the value of foreign coin; to fix the standard of weights and measures; and establish post-offices, were accepted, with little difference of opinion.[2]

No one disputed the necessity of clothing the United States with power "to borrow money." The committee of detail added a continuance of the permission "to emit bills on the credit of the United States."[3] Four years before, Hamilton, in his careful enumeration of the defects in the confederation, pronounced that this authority "to emit an unfunded paper as the sign of value ought not to continue a formal part of the constitution, nor ever, hereafter, to be employed; being, in its nature, pregnant with abuses, and liable to be made the engine of imposition and fraud; holding out temptations equally pernicious to the integrity of government and to the morals of the people."[4]

15. Gouverneur Morris one day recited the history of

[1] Gilpin, 1265–6; Elliot, 393–7.
[2] Gilpin, 1343; Elliot, 434.
[3] Gilpin, 1232; Elliot, 378.
[4] Hamilton's Works, ii. 271.

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paper emissions and the perseverance of the legislative assemblies in repeating them, though well aware of all their distressing effects, and drew the inference that, were the national legislature formed and a war to break out, this ruinous expedient, if not guarded against, would be again resorted to.[1] He moved to strike out the power to emit bills on the credit of the United States. "If the United States," said he, "have credit, such bills will be unnecessary; if they have not, they will be unjust and useless."[2] Butler was urgent for disarming the government of such a power, and seconded the motion.[3] It obtained the acquiescence of Madison.

1787. Aug. 15. 16.

Mason, of Virginia, "had a mortal hatred to paper money, yet, as he could not foresee all emergencies, he was unwilling to tie the hands of the legislature. The late war could not have been carried on had such a prohibition existed."[4] "The power," said Gorham, "as far as it will be necessary or safe, is involved in that of borrowing money."[5] Mercer, of Maryland, was unwilling to deny to the government a discretion on this point; besides, he held it impolitic to excite the opposition to the constitution of all those who, like himself, were friends to paper money.[6] "This," said Ellsworth, "is a favorable moment to shut and bar the door against paper money, which can in no case be necessary. Give the government credit, and other resources will offer. The power may do harm, never good."[7] Randolph, notwith-

[1] Gilpin, 1334; Elliot, 429.
[2] Gilpin, 1343; Elliot, 434.
[3] Gilpin, 1345; Elliot, 434.
[4] Gilpin, 1344–5; Elliot, 434–5.
[5] Gilpin, 1344; Elliot, 435.
[6] Gilpin, 1344, 1345; Elliot, 435.
[7] Gilpin, 1345; Elliot, 435.

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CHAP. VII. 1787. Aug. 16.

standing his antipathy to paper money, could not foresee all the occasions that might arise.[1] "Paper money," said Wilson, "can never succeed while its mischiefs are remembered; and, as long as it can be resorted to, it will be a bar to other resources."[2] "Rather than give the power," said John Langdon, of New Hampshire, "I would reject the whole plan."[3]

With the full recollection of the need, or seeming need, of paper money in the revolution, with the menace of danger in future time of war from its prohibition, authority to issue bills of credit that should be legal-tender was refused to the general government by the vote of nine states against New Jersey and Maryland. It was Madison who decided the vote of Virginia; and he has left his testimony that "the pretext for a paper currency, and particularly for making the bills a tender, either for public or private debts, was cut off." This is the interpretation of the clause, made at the time of its adoption alike by its authors and by its opponents,[4] accepted by all the statesmen

[1] Gilpin, 1345; Elliot, 435.

[2] Ibid.

[3] Gilpin, 1346; Elliot, 435.

[4] For Madison's narrative and opinion, see Gilpin, 1344–1346, and note on 1346; Elliot, 434, 435. The accuracy of the historical sketch of Luther Martin, officially addressed, 27 January, 1788, to the speaker of the house of delegates of Maryland, has never been questioned. It may be found in Elliot, i. 369, 370, and is as follows:

"By our original Articles of Confederation, the congress have power to borrow money and emit bills of credit on the credit of the United States; agreeably to which was the report on this system, as made by the committee of detail. When we came to this part of the report, a motion was made to strike out the words 'to emit bills of credit.' Against the motion we urged that it would be improper to deprive the congress of that power; that it would be a novelty unprecedented to establish a government which should not have such authority; that it was impossible to look forward into futurity so far as to decide that events might not happen that should render the exercise of such a power absolutely necessary; and that we doubted whether, if a war should take place, it would be possible

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of that age, not open to dispute because too clear for argument, and never disputed so long as any one man who took part in framing the constitution remained alive. CHAP. VII. 1787. Aug. 16.

History can not name a man who has gained enduring honor by causing the issue of paper money. Wherever such paper has been employed, it has in every case thrown upon its authors the burden of exculpation under the plea of pressing necessity.

Paper money has no hold, and from its very nature can acquire no hold, on the conscience or affections of the people. It impairs all certainty of possession, and taxes none so heavily as the class who earn their scant possession by daily labor. It injures the husbandman by a twofold diminution of the exchangeable value of his harvest. It is the favorite of those who seek gain without willingness to toil; it is the deadly foe of industry. No powerful political party ever permanently rested for support on

for this country to defend itself without having recourse to paper credit, in which case there would be a necessity of becoming a prey to our enemies or violating the constitution of our government; and that, considering the administration of the government would be principally in the hands of the wealthy, there could be little reason to fear an abuse of the power by an unnecessary or injurious exercise of it. But, sir, a majority of the convention, being wise beyond every event, and being willing to risk any political evil rather than admit the idea of a paper emission in any possible case, refused to trust this authority to a government in which they were lavishing the most unlimited powers of taxation, and to the mercy of which they were willing blindly to trust the liberty and property of the citizens of every state in the union; and they erased that clause from the system."

With regard to the paper money issued during the late civil war, congress healed the difficulty by obtaining, in the fourteenth amendment, from the whole country what may be regarded as an act of indemnity; and, while the country made itself responsible for the debt which was contracted, the amendment preserves the original clause of the constitution in its full integrity and vigor.

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CHAP. VII.

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the theory that it is wise and right. No statesman has been thought well of by his kind in a succeeding generation for having been its promoter.[1]

In the plan of government, concerted between the members from Connecticut, especially Sherman and Ellsworth, there was this further article: "That the legislatures of the individual states ought not to possess a right to emit bills of credit for a currency, or to make any tender laws for the payment or discharge of debts or contracts in any manner different from the agreement of the parties, or in any manner to obstruct or impede the recovery of debts, whereby the interests of foreigners or the citizens of any other state may be affected."[2]

The committee of detail had reported: No state, without the consent of the legislature of the United

28. States, shall emit bills of credit. With a nobler and safer trust in the power of truth and right over opinion, Sherman, scorning compromise, cried out: "This is the favorable crisis for crushing paper money," and, joining Wilson, they two proposed to make the prohibition absolute. Gorham feared that the absolute prohibition would rouse the most desperate opposition; but four northern states and four southern

[1] This paragraph is a very feeble abstract of the avowed convictions of the great statesmen and jurists who made the constitution. Their words are homely and direct condemnation; and they come not from one party. Richard Henry Lee is as strong in his denunciation as Washington, Sherman, or Robert R. Livingston. William Paterson, of New Jersey, wrote in 1786 as follows: "An increase of paper money, especially if it be a tender, will destroy what little credit is left; will bewilder conscience in the mazes of dishonest speculations; will allure some and constrain others into the perpetration of knavish tricks; will turn vice into a legal virtue; and sanctify iniquity by law," etc. — From the holograph of William Paterson.

[2] Sherman's Life, in "Biography of the Signers," ii. 43.

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CHAP. VII.

1787. Aug. 28.

states, Maryland being divided, New Jersey absent, and Virginia alone in the negative, placed in the constitution these unequivocal words: "No state shall emit bills of credit." The second part of the clause, "No state shall make anything but gold and silver coin a tender in payment of debts," was accepted without a dissentient state. So the adoption of the constitution is to be the end forever of paper money, whether issued by the several states or by the United States, if the constitution shall be rightly interpreted and honestly obeyed.

It was ever the wish of Sherman and Ellsworth to prohibit "the discharge of debts or contracts in any manner different from the agreement of the parties." Among the aggressions made by the states on the rights of other states, Madison, in his enumeration,[1] names the enforced payment of debts in paper money, the enforced discharge of debts by the conveyance of land or other property, the instalment of debts, and the "occlusion" of courts. For the last two of these wrongs no remedy was as yet provided.

King moved to add, as in the ordinance of congress for the establishment of new states, "a prohibition on the states to interfere in private contracts."[2] "This would be going too far," interposed Gouverneur Morris. "There are a thousand laws relating to bringing actions, limitations of actions, and the like, which affect contracts. The judicial power of the United States will be a protection in cases within their jurisdiction; within the state itself a majority must rule, whatever may be the mischief done among

[1] Madison, i. 321.

[2] Gilpin, 1443; Elliot, 485.

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CHAP. VII. 1787. Aug. 28.

themselves."[1] "Why, then, prohibit bills of credit?" inquired Sherman. Wilson was in favor of King's motion. Madison admitted that inconveniences might arise from such a prohibition, but thought on the whole its utility would overbalance them. He conceived, however, that a negative on the state laws could alone secure the end. Evasions might and would be devised by the ingenuity of legislatures.[2] His colleague Mason replied: "The motion" of King "is carrying the restraint too far. Cases will happen that cannot be foreseen, where some kind of interference will be proper and essential." He mentioned the case of limiting the period for bringing actions on open account, that of bonds after a lapse of time, asking whether it was proper to tie the hands of the states from making provision in such cases.[3]

"The answer to these objections is," Wilson explained, "that retrospective interferences only are to be prohibited." "Is not that already done," asked Madison, "by the prohibition of *ex post facto* laws, which will oblige the judges to declare such interferences null and void?"[4] But the prohibition which, on the motion of Gerry and McHenry, had been adopted six days before, was a limitation on the powers of congress. Instead of King's motion, Rutledge advised to extend that limitation to the individual states;[5] and accordingly they, too, were now forbidden to pass bills of attainder or *ex post facto*

[1] Gilpin, 1443; Elliot, 485.
[2] Ibid.
[3] Ibid.
[4] Gilpin, 1399, 1444; Elliot, 462, 485.
[5] *Ex post facto*, not retrospective, was the form used by Rutledge. Correct Gilpin, 1444, by the Journal of the Convention, in Elliot, i. 271, and compare Elliot, i. 257.

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laws by the vote of seven states against Connecticut, Maryland, and Virginia, Massachusetts being absent. So the motion of King, which had received hearty support only from Wilson, was set aside by a very great majority. 1787. Aug. 28.

The next morning "Dickinson mentioned to the house that, on examining Blackstone's Commentaries, he found that the term *ex post facto* related to criminal cases only; that the words would consequently not restrain the states from retrospective laws in civil cases; and that some further provision for this purpose would be requisite."[1] Of this remark the convention at the moment took no note; and the clause of Rutledge was left in the draft then making of the constitution, as the provision against the "stay laws and occlusion of courts" so much warned against by Madison, "the payment or discharge of debts or contracts in any manner different from the agreement of the parties," as demanded by Sherman and Ellsworth.[2] 29.

Among the prohibitions on the states which the committee of detail reported was that of laying duties on imports. "Particular states," observed Mason, "may wish to encourage by impost duties certain manufactures for which they enjoy natural advan- 28.

[1] Gilpin, 1450; Elliot, 488.

[2] That no other motion in form or substance was adopted by the convention till after the draft went into the hands of the committee of style and revision, appears from a most careful comparison of the printed journal of the convention, of its journal as preserved in manuscript, of every scrap of paper containing any motion or sketch of a motion preserved among the records of the convention in the state department, of the debates of the convention as reported by Madison, and of the several copies of the broadside which were used for the entry of amendments by Washington, by Madison, by Brearley, by Gilman, by Johnson, and another, which seems to be that of the secretary, Jackson.

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CHAP. VII. 1787. Aug. 28.

tages, as Virginia the manufacture of hemp, etc."[1] Madison replied: "The encouragement of manufactures in that mode requires duties, not only on imports directly from foreign countries, but from the other states in the union, which would revive all the mischiefs experienced from the want of a general government over commerce."[2] King proposed to extend the prohibition not to imports only, but also to exports, so as to prohibit the states from taxing either. Sherman added, that, even with the consent of the United States, the several states should not levy taxes on importations except for the use of the United States. This movement Gouverneur Morris supported as a regulation necessary to prevent the Atlantic states from endeavoring to tax the western states and promote their separate interest by opposing the navigation of the Mississippi, which would drive the western people into the arms of Great Britain. George Clymer, of Pennsylvania, "thought the encouragement of the western country was suicide on the part of the old states. If the states have such different interests that they cannot be left to regulate their own manufactures, without encountering the interests of other states, it is a proof that they are not fit to compose one nation."[3] King did not wish to "interfere too much with the policy of states respecting their manufactures," holding that such a policy of protection in a separate state might be necessary. "Revenue," he reminded the house, "was the object of the general legislature."[4] By a large majority the

[1] Gilpin, 1445; Elliot, 486.
[2] Ibid.
[3] Gilpin, 1446, 1447; Elliot, 487.
[4] Gilpin, 1447; Elliot, 487.

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prohibition on the several states of taxing imports was made dependent on the consent of the legislature of the United States; and with this limitation it was carried without a dissentient vote. The extending of the prohibition to exports obtained a majority of but one. That taxes on imports or exports by the states, even with the consent of the United States, should be exclusively for the use of the United States, gained every state but Massachusetts and Maryland. The power to protect domestic manufactures by imposts was taken away from the states, and, so far as it is incident to the raising of revenue, was confined to the United States.

CHAP. VII. 1787. Aug. 28.

The country had been filled with schemes for a division of the thirteen states into two or more separate groups; the convention, following its committee of detail, would suffer no state to enter into any confederation, or even into a treaty or alliance with any confederation. The restriction was absolute. To make it still more clear and peremptory, it was repeated and enlarged in another article, which declared not only that "no state shall enter into any agreement or compact with any foreign power," but that "no state shall enter into any agreement or compact with any other state."[1] Each state was confined in its government strictly to its own duties within itself.

6.

As to slavery, it was by unanimous consent treated as a sectional interest; freedom existed in all the states; slavery was a relation established within a state by its own law. Under the sovereignty of the king of Great Britain the laws of a colony did not on

[1] Article xiii. Gilpin, 1239; Elliot, 381.

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CHAP. VII. 1787. Aug. 6.

British soil prevail over the imperial law. The slave, so it was finally accepted, became free on touching the soil of England. In like manner in America, a slave in one American colony, finding himself on the soil of another, was subject only to the laws of the colony in which he might be found. It remained so on the declaration of independence; not as an innovation, but as the continuance of an established fact. The articles of confederation took no note of slavery, except by withholding the privileges of intercitizenship from the slave. The enumeration of slaves was in the distribution of political power a matter of indifference so long as congress voted by states and proportioned its requisitions of revenue to wealth alone.

In framing a constitution in which representation in one branch of the legislature was made to depend on population, it became the political interest of the states in which slaves abounded to have them included in the enumeration of the population equally with the free negroes and the whites. They so far succeeded that the slave inhabitants were held to be a part of the grand aggregate of the people of the United States, and as such were entitled to bring a proportional increase of representation to the state in which they abode. For the purpose of representation the slaves were by a compromise allowed to be counted, but only as three out of five; should the master see fit to liberate the slave, he became at once a free inhabitant and citizen with the right of intercitizenship, and of being counted equally in the representative population.

Intercitizenship was the life-blood of the union. The report of the committee of detail, changing only

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the words "free inhabitants" for "citizens," followed the articles of confederation in declaring that "the citizens of each state shall be entitled to all privileges and immunities of citizens in the several states."[1] The slave remained a slave, but only in states whose local laws permitted it. Cotesworth Pinckney avowed himself not satisfied with the article; he wished that "some provision should be included in favor of property in slaves." The article was nevertheless adopted, but not unanimously; South Carolina voted against it, and Georgia was divided, showing that discontent with the want of the protection of slavery was seated in their breasts, even so far as to impugn the great principle which was a necessary condition of union.[2]

1787. Aug. 6.

28.

The convention proceeded with its work, and proposed that any person who should flee from justice should be delivered up on the demand of the executive of the state from which he fled. Butler and Charles Pinckney moved, as an amendment, to require fugitive slaves to be delivered up like criminals. "This," answered Wilson, "would oblige the executive of the state to do it at the public expense." "The public," said Sherman, "can with no more propriety seize and surrender a slave or servant than a horse." Butler withdrew his motion; and the article as proposed was unanimously adopted.[3]

The convention was not unprepared to adopt a fugitive slave law, for such a clause formed a part of the ordinance of 1787, adopted in the preceding July

[1] Gilpin, 1240; Elliot, 381.
[2] Gilpin, 1447; Elliot, 487.
[3] Gilpin, 1447, 1448; Elliot, 487.

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CHAP. VII. 1787. Aug. 29.

for the government of the north-western territory. On the next day Butler, after the opportunity of reflection and consultation, offered a proposal: "That the fugitive slaves escaping into another state shall be delivered up to the person justly claiming their service or labor." This for the moment was agreed to without dissent.[1] The trouble and expense of making the claim fell on the slave-holder; the language of the article did not clearly point out by whom the runaway slave was to be delivered up.

[1] Gilpin, 1456; Elliot, 492. Compare Gilpin, 1558; Elliot, 564.

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CHAPTER VIII.

THE CONSTITUTION IN DETAIL. THE POWERS OF CONGRESS, CONTINUED.

On the eighteenth of August, Rutledge insisted that it was necessary and expedient for the United States to assume "all the state debts." A committee of eleven, to whom the subject was referred, on the twenty-first reported a grant of power to the United States to assume "the debts of the several states incurred during the late war for the common defence and general welfare." But the states which had done the most toward discharging their obligations were unwilling to share equally the burdens of those which had done the least. And the convention, adopting the language of Randolph, affirmed no more than that the engagements of the confederation should be equally valid against the United States under this constitution.[1]

1787. Aug. 18. 21. 25.

The convention agreed with its committee in giving jurisdiction to the United States over the crime of counterfeiting their coins and over crimes committed on the high seas, or against the laws of nations.[2]

17.

[1] Gilpin, 1426; Elliot, 476.

[2] Gilpin, 1349; Elliot, 437.

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CHAP. VIII.

1787. Aug. 17. The report of the committee of detail gave power to congress "to subdue a rebellion in any state on the application of its legislature." Martin approved the limitation to which Charles Pinckney, Gouverneur Morris, and Langdon objected.[1] Ellsworth moved to dispense with the application of the legislature of the rebellious state when that body could not meet. "Gerry was against letting loose the myrmidons of the United States on a state without its own consent. The states will be the best judges in such cases. More blood would have been spilt in Massachusetts in the late insurrection, if the general authority had intermeddled."[2] The motion of Ellsworth was adopted; but it weighed down the measure itself, which obtained only four votes against four.[3]

We come to a regulation where the spirit of republicanism exercised its humanest influence. The world had been retarded in civilization, impoverished and laid waste by wars of the personal ambition of its kings. The committee of detail and the convention, in the interest of peace, entrusted the power to declare war, not to the executive, but to the deliberate decision of the two branches of the legislature,[4] each of them having a negative on the other; and the executive retaining his negative on them both.

18. On the eighteenth Madison offered a series of propositions, granting powers to dispose of the lands of the United States; to institute temporary governments for new states; to regulate affairs with the Indians; to exercise exclusively legislative authority at

[1] Gilpin, 1350; Elliot, 437.
[2] Gilpin, 1350; Elliot, 438.
[3] Gilpin, 1351; Elliot, 438.
[4] Gilpin, 1351; Elliot, 438. Elliot, i. 247.

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the seat of general government; to grant charters of incorporation where the public good might require them and the authority of a single state might be incompetent; to secure to authors their copyrights for a limited time; to establish a university; to encourage discoveries and the advancement of useful knowledge.[1] In that and the next sitting Charles Pinckney proposed, among other cessions, to grant immunities for the promotion of agriculture, commerce, trades, and manufactures. They were all unanimously referred to the committee of detail.

CHAP. VIII. 1787. Aug. 18.

The power to raise and support armies was accepted unanimously, with no "fetter on" it, except the suggestion then made by Mason and soon formally adopted, that "no appropriation for that use should be for a longer term than two years." Gerry would have an army of two or three thousand[2] at the most; a number in proportion to population greater than the present army of the United States.

The idea of a navy was welcome to the country. Jefferson thought a small one a necessity.[3] The convention accepted unanimously the clause giving power "to build and equip fleets."

The report gave to the general government only power to call forth the aid of the militia.[4] Mason moved to grant the further power of its regulation and discipline, for "thirteen states would never concur in any one system";[5] but he reserved "to the

[1] Gilpin, 1353, 1354, 1355; Elliot, 439, 440.
[2] Gilpin, 1360; Elliot, 443.
[3] Notes on Virginia, end of the answer to query 22; Jefferson, i. 592, 606; ii. 211, 218; Madison, i. 196.
[4] Gilpin, 1233; Elliot, 879.
[5] Gilpin, 1355; Elliot, 440.

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CHAP. VIII.

1787. Aug. 18.

states the appointment of the officers."[1] In the opinion of Ellsworth, the motion went too far. "The militia should be under rules established by the general government when in actual service of the United States. The whole authority over it ought by no means to be taken from the states. Their consequence would pine away to nothing after such a sacrifice of power. The general authority could not sufficiently pervade the union for the purpose, nor accommodate itself to the local genius of the people."[2] Sherman supported him. "My opinion is," said Dickinson, "that the states never ought to give up all authority over the militia, and never will."[3]

Swayed by Dickinson, Mason modified his original motion, which Cotesworth Pinckney instantly renewed. A grand committee of eleven, to which this among other subjects was referred, soon reported[4] that the legislature should have power "to make laws for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States." Ellsworth and Sherman accepted the latter part of the clause, but resisted the former. "The discipline of the militia," answered Madison, "is evidently a national concern, and ought to be provided for in the national constitution."[5] And the clause was adopted by nine states against Connecticut and Maryland.[6]

21

23

Madison always wished to reserve to the United States the appointment of general officers in the militia. This Sherman pronounced absolutely inad-

[1] Gilpin, 1361; Elliot, 443.
[2] Ibid.
[3] Gilpin, 1362; Elliot, 444.
[4] Gilpin, 1378; Elliot, 451.
[5] Gilpin, 1406; Elliot, 466.
[6] Gilpin, 1407; Elliot, 466.

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missible. "As the states are not to be abolished," said Gerry, "I wonder at the attempts to give powers inconsistent with their existence.[1] A civil war may be produced by the conflict between people who will support a plan of vigorous government at every risk and others of a more democratic cast." "The greatest danger," said Madison, "is disunion of the states; it is necessary to guard against it by sufficient powers to the common government; the greatest danger to liberty is from large standing armies; it is best to prevent them by an effectual provision for a good militia."[2] Madison gained for his motion only New Hampshire, South Carolina, and Georgia.[3] 1787. Aug. 23.

The appointment of officers by the states was then agreed to; and the states were to train the militia, but according to the discipline prescribed by the United States.[4]

The power "to make all laws necessary and proper for carrying into execution the powers vested by this constitution in the government of the United States, or in any department or office thereof," was so clearly necessary that, without cavil or remark, it was unanimously agreed to.[5] 20.

The definition of treason against the United States, though made in language like that of the English law, took notice of the federal character of the American government by defining it as levying war against the United States or any one of them; thus reserving to the United States the power to punish treason, whether by war against the United States or by war

[1] Gilpin, 1407; Elliot, 466.
[2] Gilpin, 1407; Elliot, 466, 467.
[3] Gilpin, 1407, 1408; Elliot, 467.
[4] Gilpin, 1408; Elliot, 466.
[5] Gilpin, 1370; Elliot, 447.

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CHAP. VIII. 1787. Aug. 20.

against a state. Johnson was of opinion that there could be no treason against a particular state even under the confederation, much less under the proposed system. Mason answered: "The United States will have a qualified sovereignty only; the individual states will retain a part of the sovereignty." "A rebellion in a state," said Johnson, "would amount to treason against the supreme sovereign, the United States." "Treason against a state," said King, "must be treason against the United States." Sherman differed from him, saying: "Resistance against the laws of the United States is distinguished from resistance against the laws of a particular state." Ellsworth added: "The United States are sovereign on one side of the line dividing the jurisdictions, the states on the other. Each ought to have power to defend their respective sovereignties."[1] "War or insurrection against a member of the Union," said Dickinson, "must be so against the whole body." The clause as amended, evading the question, spoke only of treason by levying war against the United States or adhering to their enemies, giving them aid or comfort. No note was taken of the falsification of election returns, or the dangers peculiar to elective governments. Martin relates that he wished an amendment excepting citizens of any state from the penalty of treason, when they acted expressly in obedience to the authority of their own state; but seeing that a motion to that effect would meet with no favor, he at the time shut up the thought within his own breast.[2]

[1] Gilpin, 1375; Elliot, 450.

[2] Elliot, i. 382, 383; Reimann, Die Vereinigten Staaten von Nordamerika im Übergange vom Staat-

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CHAP. VIII. 1787. Aug. 20.

The members of the convention long held in "recollection the pain and difficulty which the subject of slavery caused in that body," and which "had well-nigh led southern states to break it up without coming to any determination."[1] The members from South Carolina and Georgia were moved by the extreme desire of preserving the union and obtaining an efficient government; but as their constituents could not be reconciled to the immediate prohibition of the slave-trade by the act of the United States, they demanded that their states should retain on that subject the liberty of choice which all then possessed under the confederation. Unwilling to break the union into fragments, the committee of detail proposed limitations of the power of congress to regulate commerce. No tax might be laid on exports, nor on the importation of slaves. As to the slave-trade, each state was to remain, as under the articles of confederation, free to import such persons as it "should think proper to admit." The states might, one by one, each for itself, prohibit the slave-trade; not the United States by a general law. This decision was coupled with no demand of privileges for the shipping interest. Ellsworth, in the committee, had consented, unconditionally, that no navigation act should be passed without the assent of two thirds of the members present in each house.

enbund zum Bundesstaat, 216, note. I think Martin did not make the motion, as it is found neither in the journal nor in Madison. His narrative is, perhaps, equivocal. His words are: "I wished to have obtained"; and again: "But this provision was not adopted." Here is no direct assertion that he made the motion. Reimann's short history is fair and accurate.

[1] Baldwin's Speech in the House, 12 Feb., 1790.

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CHAP. VIII.

1787. Aug. 21.

The prohibition to tax exports was carried by Massachusetts and Connecticut with the five most southern states.[1] Thus absolute free trade as to exports became a part of the fundamental law of the United States. The vote of Virginia was due to Mason, Randolph, and Blair; Washington and Madison were always unwilling to seem to favor a local interest, especially a southern one, and were ready to trust the subject to the general government.[2]

From Maryland came a voice against the slave-trade. For three reasons Martin proposed a prohibition or tax on the importation of slaves: the importation of slaves affects the apportionment of representation; weakens one part of the union which the other parts are bound to protect; and dishonors the principles of the revolution and the American character.[3]

Rutledge answered: "Religion and humanity have nothing to do with this question; interest alone is the governing principle with nations. The true question at present is, whether the southern states shall or shall not be parties to the union? The increase of slaves will increase the commodities, of which the northern states will become the carriers."[4] Ellsworth, speaking consistently with the respect which he had always shown for the rights of the states, answered: "I am for leaving the clause as it stands. Let every state import what it pleases. The morality or wisdom of slavery are considerations belonging to the states themselves. The old confederation did not meddle with this point; and I do not see any

[1] Gilpin, 1388; Elliot, 456.
[2] Ibid.
[3] Gilpin, 1388; Elliot, 457.
[4] Gilpin, 1389; Elliot, 457.

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greater necessity for bringing it within the policy of the new one."[1] "South Carolina," said Charles Pinckney, "can never receive the plan if it prohibits the slave-trade." Sherman was perplexed between his belief in the inherent right of man to freedom and the tenet of the right of each state to settle for itself its internal affairs, and said: "I disapprove of the slave-trade; yet, as the states are now possessed of the right to import slaves, and as it is expedient to have as few objections as possible to the proposed scheme of government, I think it best to leave the matter as we find it."[2]

Mason, compressing the observation of a long life into a few burning words, replied: "This infernal traffic originated in the avarice of British merchants; the British government constantly checked the attempts of Virginia to put a stop to it. The present question concerns not the importing states alone, but the whole union. Maryland and Virginia have already prohibited the importation of slaves expressly; North Carolina has done the same in substance. All this would be in vain if South Carolina and Georgia be at liberty to import them. The western people are already calling out for slaves for their new lands, and will fill that country with slaves if they can be got through South Carolina and Georgia. Slavery discourages arts and manufactures. The poor despise labor when performed by slaves. They prevent the emigration of whites, who really enrich and strengthen a country. They produce the most pernicious effect on manners. Every master of slaves is born a petty

[1] Gilpin, 1389; Elliot, 457.

[2] Gilpin, 1390; Elliot, 457.

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CHAP. VIII. 1787. Aug. 22.

tyrant. They bring the judgment of Heaven on a country. As nations cannot be rewarded or punished in the next world, they must be in this. By an inevitable chain of causes and effects, Providence punishes national sins by national calamities. I lament that some of our eastern brethren have, from a lust of gain, embarked in this nefarious traffic. As to the states being in possession of the right to import, this is the case with many other rights, now to be properly given up. I hold it essential in every point of view, that the general government should have power to prevent the increase of slavery."[1] Mason spoke from his inmost soul, anxious for the happiness of his country and the welfare of mankind.

To words of such intense sincerity Ellsworth answered with almost mocking irony: "As I have never owned a slave I cannot judge of the effects of slavery on character. If, however, it is to be considered in a moral light, we ought to go further and free the slaves already in the country. Besides, slaves multiply so fast in Virginia and Maryland, that it is cheaper to raise than import them, whilst in the sickly rice-swamps foreign supplies are necessary; if we go no further than is urged, we shall be unjust toward South Carolina and Georgia. Let us not intermeddle. As population increases, poor laborers will be so plenty as to render slaves useless. Slavery, in time, will not be a speck in our country. Provision is made in Connecticut for abolishing it; and the abolition has already taken place in Massachusetts."[2]

[1] Gilpin, 1390, 1391; Elliot, 458. [2] Gilpin, 1392; Elliot, 458.

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"If the southern states are let alone," said Charles Pinckney, "they will probably of themselves stop importations. I would myself, as a citizen of South Carolina, vote for it." CHAP. VIII. 1787. Aug. 22.

In the same vein Cotesworth Pinckney remarked: "If I and all my colleagues were to sign the constitution and use our personal influence, it would be of no avail toward obtaining the consent of our constituents. South Carolina and Georgia cannot do without slaves. Virginia will gain by stopping the importations. Her slaves will rise in value, and she has more than she wants. It would be unequal to require South Carolina and Georgia to confederate on such terms. Slaves should be dutied like other imports; but a rejection of the clause is the exclusion of South Carolina from the union."[1] Baldwin, with opinions on the rights of the states like those of Ellsworth and Sherman, continued: "The object before the convention is not national, but local. Georgia cannot purchase the advantage of a general government by yielding the abridgment of one of her favorite prerogatives. If left to herself, she may probably put a stop to the evil."[2]

"If South Carolina and Georgia," observed Wilson, "are themselves disposed to get rid of the importation of slaves in a short time, they will never refuse to unite because the importation might be prohibited."[3] To this Cotesworth Pinckney made answer: "I think myself bound to declare candidly, that I do not believe South Carolina will stop her impor-

[1] Gilpin, 1392, 1393; Elliot, 459.
[2] Gilpin, 1393; Elliot, 459.
[3] Gilpin, 1393; Elliot, 459.

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CHAP. VIII.

tations of slaves in any short time, except occasionally as she now does."[1]

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"On every principle of honor and safety," said Dickinson, "it is inadmissible that the importation of slaves should be authorized to the states by the constitution. The true question is whether the national happiness will be promoted or impeded by the importation; and this question ought to be left to the national government, not to the states particularly interested. I cannot believe that the southern states will refuse to confederate on that account, as the power is not likely to be immediately exercised by the general government."[2] Here was the first opening to a grant of the power, coupled with a prospect of delay in using it.

Williamson, himself no friend of slavery, distinctly intimated that North Carolina would go with her two neighbors on the south. Cotesworth Pinckney now moved to commit the clause, that slaves might be made liable to an equal tax with other imports.[3] "If the convention," said Rutledge, "thinks that North Carolina, South Carolina, and Georgia will ever agree to the plan, unless their right to import slaves be untouched, the expectation is vain;" and he seconded the motion for a commitment. Gouverneur Morris wished the whole subject to be committed, including the clauses relating to taxes on exports and to a navigation act. These things might form a bargain among the northern and southern states. "Rather than to part with the southern states," said Sherman, "it is

[1] Gilpin, 1395; Elliot, 460.
[2] Gilpin, 1394; Elliot, 460.
[3] Gilpin, 1395; Elliot, 460.

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better to let them import slaves. But a tax on slaves imported makes the matter worse, because it implies they are property."

"Two states," said Randolph, "may be lost to the union; let us, then, try the chance of a commitment."[1] The motion for commitment was adopted by the votes of Connecticut, New Jersey, and the five southernmost states, against New Hampshire, Pennsylvania, and Delaware; Massachusetts was absent.

Charles Pinckney and Langdon then moved to commit the section relating to a navigation act.[2] "I desire it to be remembered," said Gorham, remotely hinting at possible secession, "the eastern states have no motive to union but a commercial one."[3] Ellsworth, maintaining the position which he had deliberately chosen, answered: "I am for taking the plan as it is. If we do not agree on this middle and moderate ground, I am afraid we shall lose two states with others that may stand aloof; and fly, most probably, into several confederations, not without bloodshed."[4]

Had the convention listened to no compromise on the slave-trade, Georgia and South Carolina would not have accepted the new constitution; North Carolina would have clung to them, from its internal condition; Virginia, however earnest might have been the protest against it by Madison and Washington, must have acted with North Carolina, and, as a consequence, there would from the beginning have been a federation of slave-holding states. The committee to which the whole subject of restriction on the power

[1] Gilpin, 1396; Elliot, 461.
[2] Gilpin, 1397; Elliot, 461.
[3] Gilpin, 1397; Elliot, 461.
[4] Ibid.

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CHAP. VIII. over commerce was referred consisted of Langdon, King, Johnson, the aged William Livingston of New
1787. Aug. 22. Jersey, Clymer, Dickinson, Martin, Madison, Williamson, Cotesworth Pinckney, and Baldwin,[1] a large majority of them venerable for uprightness and ability.
24. Their report, made on the third day, granted to the United States the power to lay a tax of ten dollars on every imported slave,[2] and the power to prohibit the slave-trade after the year 1800.

25. On the twenty-fifth, when the report of the committee of eleven was taken up, Sherman once more resisted the duty "as acknowledging men to be property" by taxing them as such under the character of slaves; and Madison supported him, saying: "I think it wrong to admit in the constitution the idea that there can be property in men."[3] But the clause was unanimously held fast as a discouragement of the traffic.

Cotesworth Pinckney then moved to extend the time allowed for the importation of slaves till the year 1808. Gorham was his second. Madison spoke earnestly against the prolongation;[4] but, without further debate, the motion prevailed by the votes of the three New England states, Maryland, and the three southernmost states, against New Jersey, Pennsylvania, Delaware, and Virginia.[5]

"It ought to be considered," wrote Madison at the time, "as a great point gained in favor of humanity, that a period of twenty years may terminate forever

[1] Gilpin, 1397; Elliot, 461.

[2] The slave was deemed to have an average value of two hundred dollars, so that the impost was of five per cent, the rate at one time proposed on all articles of import. Gilpin, 1415; Elliot, 471.

[3] Gilpin, 1429, 1430; Elliot, 478.

[4] Gilpin, 1427; Elliot, 477.

[5] Ibid.

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within these states a traffic which has so long and so loudly upbraided the barbarism of modern policy. Happy would it be for the unfortunate Africans, if an equal prospect lay before them of being redeemed from the oppressions of their European brethren!"[1] 1787. Aug. 25.

The confederation granted no power to interfere with the slave-trade. The new constitution gave power to prohibit it in new states immediately on their admission, in existing states at the end of the year 1807. Louisiana, by annexation to the union, lost the license to receive slaves from abroad. On the second day of December, 1806, Thomas Jefferson, president of the United States of America, addressed this message to congress:[2] "I congratulate you, fellow-citizens, on the approach of the period at which you may interpose your authority constitutionally to withdraw the citizens of the United States from all further participation in those violations of human rights which have been so long continued on the unoffending inhabitants of Africa, and which the morality, the reputation, and the best interests of our country have long been eager to proscribe."

Unanimous legislation followed the words from the president, and as the year 1808 broke upon the United States, the importation of slaves had ceased. And did slavery have as peaceful an end? Philanthropy, like genius and like science, must bide its time. Man cannot hurry the march of the supreme power, to which years are as days.

Two members of the convention, with the sincere integrity which clears the eye for prophetic vision,

[1] The Federalist, No. xlii. [2] Journals of Congress, v. 468.

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CHAP. VIII. 1787. Aug. 25. read the doom of slaveholding. Mason, fourteen years before, in a paper laid before the legislature of Virginia, had given his opinion that as the natural remedy for political injustice the constitution should by degrees work itself clear by its own innate strength, the virtue and resolution of the community; and he added: "The laws of impartial Providence may avenge upon our posterity the injury done to a set of wretches whom our injustice hath debased almost to a level with the brute creation. These remarks were extorted by a kind of irresistible, perhaps an enthusiastic, impulse; and the author of them, conscious of his own good intentions, cares not whom they please or offend."[1]

July 11. During a debate, in July, on the value of slaves, Mason observed of them that they might in cases of emergency themselves become soldiers.[2] On another

Aug. 22. day[3] he called to mind that Cromwell, when he sent commissioners to Virginia to take possession of the country, gave them power to arm servants and slaves. He further pointed out that the British might have prevailed in the South in the war of the revolution had they known how to make use of the slaves; that in Virginia the royal governor invited them to rise at a time when he was not in possession of the country, and, as the slaves were incapable of self-organization and direction, his experiments by proclamation, addressed to them in regions not within his sway, totally

[1] George Mason's extracts from the Virginia charters, with some remarks on them, made in the year 1773. MS. The paper, though communicated to the legislature of Virginia, has not been found in its archives. My copy, which is, perhaps, the only one now in existence, I owe to the kindness of the late James M. Mason.

[2] Gilpin, 1068; Elliot, 296.

[3] Gilpin, 1390; Elliot, 458.

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failed; but that in South Carolina, where the British were in the full possession of the country, they might have enfranchised and enrolled the slaves for the consolidation and establishment of British power. But the civil and military officers in those days of abject corruption chose rather to enrich themselves by shipping the slaves to the markets of the West Indies. Five months later Madison, in a paper addressed to the country, remarked: "An unhappy species of population abounds in some of the states who, during the calm of the regular government, are sunk below the level of men; but who, in the tempestuous scenes of civil violence, may emerge into the human character, and give a superiority of strength to any party with which they may associate themselves."[1] Slaveholding was to be borne down only on the field of battle. CHAP. VIII. 1787. Aug. 22.

The dignity and interests of the United States alike demanded a grant of power to the general government for the regulation of foreign as well as domestic trade. Without it the navigation of the country would have been at the mercy of foreign restrictions. For this regulation the new constitution required, as in all other acts of legislation, no more than a majority of the two houses of congress. A strong opposition started up in the South under the lead of Charles Pinckney and Martin, inflamed by Mason and by Randolph; but it was in vain. Madison, Spaight, and Rutledge defended the report of the eleven like statesmen, free from local influences or prejudice. It was clearly stated that the ships of nations in treaty with the United States would 29.

[1] Madison in the Federalist, No. xliii, published 25 Jan., 1788.

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CHAP. VIII. 1787. Aug. 29.

share in their carrying trade; that a rise in freight could be but temporary, because it would be attended by an increase of southern as well as of northern shipping; that the West India trade was a great object to be obtained only through the pressure of a navigation act. Cotesworth Pinckney owned that he had been prejudiced against the eastern states, but had found their delegates as liberal and as candid as any men whatever. On the question, Delaware and South Carolina joined the united North against Maryland, Virginia, North Carolina, and Georgia. After this vote the convention accepted unanimously the proposition to grant to the majority in the two branches of congress full power to make laws regulating commerce and navigation. Randolph was so much dissatisfied that he expressed a "doubt whether he should be able to agree to the constitution." Mason, more deeply in earnest, as yet held his emotions in check.

Of new states, the Virginia plan knew those only "lawfully arising within the limits of the United States," and for their admission vaguely required less than a unanimous vote; the committee of detail demanded the consent of two thirds of each house of congress, as well as the concurrence of the states within whose "limits" the new states should arise.

At this stage Gouverneur Morris enlarged the scope and simplified the language of the article. The confederation had opened the door to Canada at its own choice alone, and to any other territory that could obtain the consent of two thirds of congress. It was no longer decent to hold out to Canada an

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invitation to annex itself to the union; but the American mind, in the strength of independence, foresaw its expansion. The rising states beyond the mountains were clamorous for the unobstructed navigation of the Mississippi, which might lead to the acquisition by treaty of all the land east of that river; and the boundary on the south, as well of Georgia as of Florida, had never been adjusted with Spain. Gouverneur Morris had at an early day desired to restrict the limits of the United States; he now gave his ancient fears to the winds, and, acceding in advance to the largest eventual annexations, he proposed these few and simple words: "New states may be admitted by the legislature into the union,"[1] with the full understanding[2] and intention that an ordinary act of legislation should be sufficient by a bare majority to introduce foreign territory as a state into the union. This clause the convention accepted without a debate, and without a division.

30. Maryland, impelled by a desire to guard the right of the United States to the back lands, and to be the champion of Kentucky, of Maine, of Vermont, and of the settlements on the Tennessee river and its branches, would have granted to the legislature of the United States unlimited power to dismember old states, but was supported only by Delaware and New Jersey. Vermont might once have been included within "the limits" of New York, but certainly remained no longer within its jurisdiction. By changing the word "limits" to "jurisdiction," the conven-

[1] Gilpin, 1458; Elliot, 493.

[2] Life and Writings of Gouverneur Morris by Sparks, iii. 183, 185, 290. Cooley's Story, 1282, etc..

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CHAP. VIII. 1787. Aug. 30.

tion, still following Gouverneur Morris, provided for its future admission to the union without the consent of New York. In regard to the south-western settlements, the preliminary consent of the states of which they then formed a part was not dispensed with. In like manner no state could be formed by the junction of two or more states or parts thereof without the concurrence of such states. The country north-west of the Ohio having already been provided for, the rule for the admission of new states was thus completed for every part of the territory of the states or of the United States. The convention, still using the language of Gouverneur Morris, and no one but Maryland dissenting, assigned to the legislature the power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.

Every word in the constitution bearing on the subject of slavery was chosen with the greatest caution; every agreement was jealously guarded. After the section relating to the slave-trade, the committee of detail inserted: "No capitation tax shall be laid unless in proportion to the census hereinbefore directed to be taken."[1] This was intended to prevent congress from enforcing a general emancipation by the special taxation of slaves.[2]

[1] Gilpin, 1234, 1415; Elliot, 379, 471.

[2] Speech of Baldwin in the house of representatives, 12 Feb., 1790.

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CHAPTER IX.

THE PRESIDENT.

How to call forth one of the people to be their executive chief for a limited period of years, and how to clothe him with just sufficient powers, long baffled the convention. Federal governments, in Greece, in Switzerland, and in Holland, like the confederation of the United States, had been without a separate executive branch; and the elective monarchies of Poland, of the Papal states, and of Germany, offered no available precedents. The report of the committee of detail introduced no improvement in the manner of selecting a president; and it transferred to the senate the power to make treaties and to appoint ambassadors and judges of the supreme court.[1] Questions relating to his duties long remained in doubt; the mode of his election was reached only just before the close of the convention.

1787.

Aug. 6.

The Virginia plan confided the choice of the executive to the national legislature. "An election by the national legislature," objected Gouverneur Morris,

July 17.

[1] Gilpin, 1234; Elliot, 379.

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CHAP. IX. 1787. July 17.

on the seventeenth of July, "will be the work of intrigue, of cabal, of corruption, and of faction; it will be like the election of a pope by a conclave of cardinals; of a king by the diet of Poland; real merit will rarely be the title to the appointment." He moved for an election by the "citizens of the United States."[1] Sherman preferred a choice by the national legislature. Wilson insisted on an election by the people; should no one have a majority, then, and then only, the legislature might decide between the candidates.[2] Charles Pinckney opposed the election by the people, because it would surrender the choice to a combination of the populous states led by a few designing men.[3] "To refer the choice of a proper character for a chief magistrate to the people," protested Mason, "would be as unnatural as to refer a trial of colors to a blind man."[4] "An election by the people," observed Williamson, "is an appointment by lot." On the first vote Pennsylvania stood alone against nine states. Martin proposed to entrust the appointment to the legislatures of the states; and was supported only by Delaware and Maryland.

On the mode of choosing the president, the length of his period of office and his re-eligibility would be made to depend. The convention, in committee, had fixed that period at seven years with a prohibition of re-election. On the motion of William Houston, of Georgia, supported by Sherman and Gouverneur Morris, this compulsory rotation was struck out

[1] Gilpin, 1120; Elliot, 322.
[2] Gilpin, 1121; Elliot, 323.
[3] Gilpin, 1121; Elliot, 323.
[4] Gilpin, 1123; Elliot, 324.

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1787. July 17.

by six states, against Delaware, Virginia, and the two Carolinas.[1] The executive becoming re-eligible, Broom revived the idea of a shorter period of service.[2] McClurg held that the independence of the executive was no less essential than the independence of the judiciary; that a president, elected for a small number of years by the national legislature, and looking to that body for re-election, would be its dependent. To escape from corrupt cabals and yet preserve a good officer in place, he moved that the tenure of office should be good behavior.[3] Gouverneur Morris beamed with joy. Broom found all his difficulties obviated. "Such a tenure," interposed Sherman, "is neither safe nor admissible; re-election will depend on good behavior."[4]

Madison, who to the last refused with unabated vigor to entrust the choice of the national executive to the national legislature, and at heart would not have been greatly disinclined to the longest period of service for the executive, if "an easy and effectual removal by impeachment could have been settled,"[5] argued from the necessity of keeping the executive, legislative, and judiciary powers independent of each other, that the tenure of good behavior for the executive was a less evil than its dependence on the national legislature for re-election.

Mason replied: "An executive during good behavior is only a softer name for an executive for life; the next easy step will be to hereditary monarchy. Should the motion succeed, I may myself live to see

[1] Gilpin, 1125; Elliot, 825.
[2] Ibid.
[3] Ibid.
[4] Gilpin, 1126; Elliot, 825.
[5] Compare Madison's Writings, i. 345, and Gilpin, 1127; Elliot, 826.

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CHAP. IX. 1787. July 17. such a revolution."[1] "To prevent the introduction of monarchy," rejoined Madison, "is, with me, the real object. Experience proves a tendency in our governments to throw all power into the legislative vortex. The executives of the states are in general little more than ciphers; the legislatures omnipotent. If no effectual check be devised on the encroachments of the latter, a revolution will be inevitable."[2] After explanations by McClurg, four states—New Jersey, Pennsylvania, Delaware, and Virginia, Madison voting with McClurg—expressed their preference for the tenure of good behavior to the tenure of seven years with a perpetual re-eligibility by the national legislature.[3] Massachusetts was among the six states in the negative, though to

20. King, who "relied on the vigor of the executive as a great security for the public liberties,"[4] the tenure of good behavior would have been most agreeable, "provided an independent and effectual forum could be devised for the trial of the executive on an impeachment."[5]

19. This discussion brought the convention unanimously[6] to the opinion that if the executive was to be chosen by the national legislature, he ought not to be re-eligible. Those, therefore, who agreed with Sherman, that the statesman who had proved himself most fit for an office ought not to be excluded by the con-

[1] Gilpin, 1127, 1128; Elliot, 326.

[2] Gilpin, 1128; Elliot, 327. Compare with this what Sherman said on the first day of June: "An independence of the executive on the supreme legislature is, in my opinion, the very essence of tyranny, if there be any such thing." Gilpin, 766; Elliot, 142.

[3] Gilpin, 1129; Elliot, 327.

[4] Gilpin, 1157; Elliot, 342.

[5] Ibid.

[6] Gilpin, 1147; Elliot, 337

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stitution from holding it, were bound to devise some other acceptable mode of election. CHAP. IX.

1787. July 19.

The first thought was an immediate choice by the people. But here Madison pointed out that "the right of suffrage was much more diffusive in the northern states than in the southern; and that the latter would have no influence in the election on the score of the negroes."[1] To meet this difficulty, King revived Wilson's proposition for the appointment of the executive by electors chosen by the people expressly for the purpose;[2] and Madison promptly accepted it as, "on the whole, liable to fewest objections."[3] So, too, in part, thought the convention, which, on the motion of Ellsworth, decided, by six states to three, that the national executive should be appointed by electors; and, by eight states to two, that the electors should be chosen by the state legislatures.[4] A preliminary proportional distribution of the electors among the states, as proposed by Gerry, was accepted. From confidence in the purity of the electoral body thus established, the re-eligibility of the executive was again affirmed by a vote of eight states against the two Carolinas;[5] and in consequence of the re-eligibility, the term of office was, at Ellsworth's motion, reduced by the vote of all the states but Delaware from seven years to six.[6] So the convention hoped to escape from the danger of a corrupt traffic between the national legislature and candidates for the executive by assembling in one place one grand electoral college, chosen by the legislatures

[1] Gilpin, 1148; Elliot, 337.
[2] Gilpin, 1147; Elliot, 336.
[3] Gilpin, 1148; Elliot, 337.
[4] Gilpin, 1150; Elliot, 338.
[5] Gilpin, 1150, 1151; Elliot, 338.
[6] Gilpin, 1151, 1152; Elliot, 339.

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CHAP. IX.

of the several states at the moment for the sole purpose of electing that officer.

1787. July 24.

To this system Caleb Strong, of Massachusetts, started this grave objection: "A new set of men, like the electors, will make the government too complex; nor will the first characters in the state feel sufficient motives to undertake the office."[1] On the previous day Houston, of Georgia, had directed the thoughts of the convention "to the expense and extreme inconvenience of drawing together men from all the states for the single purpose of electing the chief magistrate."[2] To him, likewise, it now seemed improbable that capable men would undertake the service. He was afraid to trust to it. Moved by these considerations, but still retaining its conviction of the greater purity of an electoral college, the convention, by seven votes against four, in the weariness of vacillation, returned to the plan of electing the national executive by the national legislature.[3] But the vote was sure to reopen the question of his re-eligibility.

The convention was now like a pack of hounds in full chase, suddenly losing the trail. It fell into an anarchy of opinion, and one crude scheme trod on the heels of another. Williamson, pleading the essential difference of interests between the northern and southern states, particularly relating to the carrying trade, "wished the executive power to be lodged in three men, taken from three districts, into which the states should be divided."[4] "At some time or other," said he, "we shall have a king; to postpone the event

[1] Gilpin, 1189; Elliot, 358.
[2] Gilpin, 1186; Elliot, 357.
[3] Gilpin, 1190; Elliot, 359.
[4] Gilpin, 1189; Elliot, 358.

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as long as possible, I would render the executive ineligible."[1] CHAP. IX.

In the event of the ineligibility of the executive, Martin, forgetting the state of anarchy and faction that would attend a long period of service by an incompetent or unworthy incumbent, proposed that the term of executive service should be eleven years.[2] "From ten to twelve," said Williamson.[3] "Fifteen," said Gerry; and King mocked them all by proposing "twenty years, the medium life of princes."[4] Wilson, seeing no way of introducing a direct election by the people, made the motion,[5] that the executive should be chosen by electors to be taken from the national legislature by lot. 1787. July 24.

Ellsworth pointed out that to secure a candidate for re-election against an improper dependence on the legislature, the choice should be made by electors.[6] Madison liked best an election of the executive by the qualified part of the people at large. "Local considerations," he said, "must give way to the general interest. As an individual from the southern states, I am willing to make the sacrifice."[7] 25.

And now came into consideration an element which exercised a constant bias on the discussion to the last. Ellsworth complained that the executive would invariably be taken from one of the larger states. "To cure the disadvantage under which an election by the people would place the smaller states," Williamson proposed that each man should vote for three

[1] Gilpin, 1189, 1190; Elliot, 359.
[2] Gilpin, 1191; Elliot, 360.
[3] Gilpin, 1190; Elliot, 359.
[4] Gilpin, 1191; Elliot, 360.
[5] Gilpin, 1196; Elliot, 362.
[6] Gilpin, 1198; Elliot, 363.
[7] Gilpin, 1201; Elliot, 365.

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CHAP. IX. 1787. July 25.

candidates.[1] Gouverneur Morris accepted the principle, but desired to limit the choice of the voters to two, of whom at least one should not be of his own state. This Madison approved, believing that the citizens would give their second vote with sincerity to the next object of their choice.[2] We shall meet the proposition again.

Lastly, Dickinson said: "Insuperable objections lie against an election of the executive by the national legislature, or by the legislatures or executives of the states. I have long leaned toward an election by the people, which I regard as the best and the purest source. Let the people of each state choose its best citizen, and out of the thirteen names thus selected an executive magistrate may be chosen, either by the national legislature or by electors."[3]

From hopelessness of an agreement, Gerry and Butler were willing to refer the resolution relating to the executive to a committee, but Wilson insisted that a general principle must first be fixed by a vote of the house.[4]

26. On the morning of the next day,[5] Mason recapitulated all the seven different ways that had been proposed of electing the chief magistrate: by the people at large; by the legislatures of the states; by the executives of the states; by electors chosen by the people; by electors chosen by lot; by the legislature on the nomination of three or two candidates by each several state; by the legislature on the nomination of one candidate from each state. After reviewing them

[1] Gilpin, 1204; Elliot, 366.
[2] Gilpin, 1205; Elliot, 367.
[3] Gilpin, 1206; Elliot, 367.
[4] Gilpin, 1207; Elliot, 368.
[5] Ibid.

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CHAP. IX.

all, he concluded that an election by the national legislature, as originally proposed, was the best. At the same time he held it to be the very palladium of civil liberty, that the great officers of state, and particularly the executive, should at fixed periods return to that mass from which they were taken. Led for the moment by this train of thought, the convention by six states, against Pennsylvania, Delaware, and Maryland, with Virginia equally divided, resolved, that a national executive be instituted; to consist of a single person; who should be chosen by the national legislature; for the term of seven years; and be ineligible a second time.[1]

1787. July 26.

Foremost in undiminished disapproval of the choice of the executive by the legislature were Washington, Madison, Wilson, Gouverneur Morris, and Gerry; foremost for the election by that body were Rutledge, Mason, and, in a moderate degree, Strong. During the debate Gouverneur Morris had declared: "Of all possible modes of appointing the executive, an election by the people is the best; an election by the legislature is the worst.[2] I prefer a short period and re-eligibility, but a different mode of election."[3] In this he spoke the mind of Pennsylvania; and he refused to accept the decision of that day as final.

On the twenty-fourth of August the report of the committee of detail relating to the executive came before the convention. All agreed that the executive power should be vested in a single person, to be styled: the President of the United States of Ameri-

Aug. 24.

[1] Gilpin, 1211; Elliot, 870.
[2] Gilpin, 1193, 1204; Elliot, 861, 866.
[3] Gilpin, 1195; Elliot, 862.

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CHAP. IX. 1787. Aug. 24.

ca; and none questioned that his title might be: His Excellency.[1] According to the report, he was to be elected by ballot by the legislature for a term of seven years, but might not be elected a second time.[2]

The strife on the manner of his election revived. Daniel Carroll, of Maryland, seconded by Wilson, renewed the motion, that he should be elected by the people; but the house was weary or unprepared to reopen the subject, and at the moment the motion received only the votes of Pennsylvania and Delaware.[3] Rutledge then moved that the election of the president be made by the legislature in "joint ballot."

The conducting of business, especially of elections, by the two branches of the legislature in joint session was from early days familiar to the states, and was at that time established in every one of them which had prepared a constitution of its own with two branches of the legislature, so that the regulations for that mode of choice were perfectly well understood. New Hampshire had had the experience of both methods; many of its officers were chosen annually by joint ballot, while its representatives to congress were appointed by the concurrent vote of the two houses. Unhappily, throughout this part of the work, the equal vote of the smaller states with the larger ones in the senate persistently biassed the movements of the convention.

In the special interest of the smaller states Sherman objected to a vote of the two houses in joint ballot, because it would deprive the senate of a nega-

[1] Gilpin, 1417; Elliot, 472.
[2] Gilpin, 1236; Elliot, 472.
[3] Gilpin, 1418; Elliot, 472.

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tive on the more numerous branch. "It is wrong," said Gorham, "to be considering at every turn whom the senate will represent; the public good is the object to be kept in view; delay and confusion will ensue, if the two houses vote separately, each having a negative on the choice of the other." Dayton and Brearley, following in the wake of Sherman, opposed a joint ballot, as impairing the power of the smaller states;[1] but Langdon, of New Hampshire, enlightened by experience at home, dwelt on the great difficulties of which the mode of separate votes by the two houses was productive; and, like a good patriot as he was, he approved the joint ballot, "though unfavorable to New Hampshire as a small state." Wilson remarked "that the senate might have an interest in throwing dilatory obstacles in the way, if its separate concurrence should be required." On the same side spoke Madison; and the motion of Rutledge prevailed by seven states, against Connecticut, New Jersey, Maryland, and Georgia.[2]

These four states, joined by Delaware, then demanded that, on the joint ballot, the vote should be taken by states; the decision turned on New Hampshire; and following the patriotic opinion of Langdon, it joined the five larger states and negatived the proposal. For an election of president, a majority of the votes of the members present was required, New Jersey alone dissenting.[3] "In case the votes of the two highest should be equal," Read, of Delaware, taking a clause from the constitution of his own state,

[1] Gilpin, 1419; Elliot, 472.
[2] Gilpin, 1419; Elliot, 473.
[3] Gilpin, 1420; Elliot, 473.

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CHAP. IX. moved that the president of the senate should have an additional vote; but it was disagreed to by a general negative.

1787. Aug. 24. At this moment Gouverneur Morris interposed with decisive effect. He set forth the danger of legislative tyranny that would follow from leaving the executive dependent on the legislature for his election; he dwelt once more on the "cabal and corruption"[1] which would attach to that method of choice. The plan of choosing the president by electors, which he now revived, had made such progress that five states voted with him, among them Pennsylvania and Virginia. A reference of the subject to a committee was lost for the moment by a tie vote, Connecticut being divided.[2] But opinion ripened so fast that, on
31. the thirty-first of August, the mode of choosing the president, his powers, and the question of his re-eligibility, was with other unfinished business referred to a grand committee of one from each state. The Eleven, appointed by ballot, were Gilman, King, Sherman, Brearley, Gouverneur Morris, Dickinson, Carroll, Madison, Williamson, Butler, and Baldwin.[3]

Gouverneur Morris had loudly put forward his wish to make of the senate a thoroughly aristocratic body, and of the president a tenant for life. It agreed with this view to repose the eventual election of the president in the senate. The electoral colleges, in the want of all means of rapid intercommunication, would have rarely cast a majority for one man; and the requisition on the electors to vote each for

[1] Gilpin, 1420; Elliot, 473.
[2] Gilpin, 1421; Elliot, 474.
[3] Gilpin, 1478; Elliot, 503.

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two men increased the chances that there would be no election, and that one of the candidates at least would be a citizen of a smaller state. He was aware that the outgoing president would be apt to be a candidate for re-election; and desired nothing better than such a junction between the president and senate as would secure a re-election during life. CHAP. IX. 1787. Aug. 31.

Sherman hated aristocracy; but he was specially watchful of the equal power of the smaller states, and saw that, on the first ballot of the election, the large states, having many votes, would always bring forward their candidates with superior strength. To gain a chance for electing a president from the small states, they insisted that in case there should be no election by the colleges, not less than five names should be reported as candidates for the eventual election, and among five names there was a great probability that there would be one from the smaller states. They therefore insisted that the eventual election should be made by the senate; and this was carried by a coalition of aristocratic tendencies in Gouverneur Morris and others from the large states with the passion of the small states for disproportionate chances for power.

The committee, having considered the subject in all its bearings, made their report on the fourth day of September.[1] The term of the presidency was limited to four years; and the election was confided to electors to be appointed in each state as its legislature might direct; and to be equal to the whole number of its senators and representatives in congress; Sept. 4.

[1] Gilpin, 1485–1488; Elliot, 507.

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CHAP. IX. 1787. Sept. 4.

so that the electoral colleges collectively were to be the exact counterpart of the joint convention of the legislature.

The electors of each state were to meet[1] in their respective states, and vote by ballot for two persons, of whom one, at least, should not be an inhabitant of the same state with themselves. A certified list of these votes, under the seal of the electoral college, was to be transmitted to the president of the senate.[2] "The president of the senate," discharging a purely ministerial office, "shall in that house open all the certificates, and the votes shall be then and there counted. The person having the greatest number of votes shall be the president, if such number be a majority of that of the electors; and if there be more than one who has such a majority and an equal number of votes—a case that would most rarely, perhaps never, occur—then the senate shall[3] choose by ballot one of them for president; but if no person has a majority, then, from the five highest on the list, 'the senate,'" in which body the smallest state had an equal vote with the largest, "shall choose by ballot the president." "After the choice of the president, the person having the greatest number of votes," whether a majority of them or not, "shall be vice-president"—an officer now for the first time introduced; "but if there should remain two or more who have equal votes, then the senate shall choose from them the vice-president."[4]

[1] Gilpin, 1486; Elliot, 507.
[2] Ibid.
[3] "Immediately," not in original report. It was inserted 6 Sept. See Gilpin, 1509; Elliot, 518, and i. 283, 289.
[4] Gilpin, 1486, 1487; Elliot, 507.

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CHAP. IX. 1787. Sept. 4.

Mason, who thought the insulated electoral colleges would almost never unite their votes on one man, spoke earnestly: "The plan is liable to this strong objection, that nineteen times in twenty the president will be chosen by the senate, an improper body for the purpose." To the objection of Charles Pinckney, that electors would be strangers to the several candidates, and unable to decide on their comparative merits, Baldwin answered: "The increasing intercourse among the people of the states will render important characters less and less unknown."[1] "This subject," said Wilson, "has greatly divided the house, and will divide the people. It is, in truth, the most difficult of all on which we have had to decide. I have never made up an opinion on it entirely to my own satisfaction." The choice by electors "is, on the whole, a valuable improvement on the former plan. It gets rid of cabal and corruption; and continental characters will multiply as we more and more coalesce, so as to enable the electors in every part of the union to know and judge of them. It clears the way for a discussion of the question of the re-eligibility of the president on its own merits, which the former mode of election seemed to forbid. It may, however, be better to refer the eventual appointment to the legislature than to the senate, and to confine it to a smaller number than five of the candidates."[2]

"I wish to know," asked Randolph, chiming in with Wilson, "why the eventual election is referred

[1] Gilpin, 1491; Elliot, 509.

[2] Gilpin, 1491, 1492; Elliot, 509.

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CHAP. IX. to the senate, and not to the legislature? I see no necessity for this, and many objections to it."[1]

1787. Sept. 5. On the fifth, Mason, supported by Gerry, attempted to reduce the number of candidates to be voted for from five to three;[2] but the small states, who saw their best chance of furnishing a president in the larger number, were humored by the convention, and to the last the number of five was not changed.

One great objection of Mason would be removed by depriving the senate of the eventual election.[3] Wilson proposed the capital amendment, to transfer the eventual election from the senate to the "legislature."[4] This change Dickinson approved. But the convention was not yet ripe for the motion, all the smaller states, except New Hampshire, voting against it.

"The mode of appointment as now regulated," said Mason at the close of the day, "is utterly inadmissible. I should prefer the government of Prussia to one which will put all power into the hands of seven or eight men"—a majority of a quorum of the senate —"and fix an aristocracy worse than absolute monarchy."[5]

6. On the sixth, Gerry, supported by King and Williamson, proposed that the eventual election should be made by the legislature. Sherman, sedulously supporting the chances of the small states, remarked, that if the legislature, instead of the senate, were to have the eventual appointment of the president, it ought to vote by states.[6]

[1] Gilpin, 1492; Elliot, 510.
[2] Gilpin, 1502; Elliot, 514.
[3] Gilpin, 1498, 1499; Elliot, 513.
[4] Gilpin, 1500; Elliot, 513.
[5] Gilpin, 1503; Elliot, 515.
[6] Gilpin, 1504; Elliot, 516.

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CHAP. IX.

1787. Sept. 6.

Wilson himself, on the same morning, spoke with singular energy, disapproving alike the eventual choice of the president by the equal vote of the states and the tendency to clothe the senate with special powers: "I have weighed carefully the report of the committee for remodelling the constitution of the executive; and, on combining it with other parts of the plan, I am obliged to consider the whole as having a dangerous tendency to aristocracy, as throwing a dangerous power into the hands of the senate. They will have, in fact, the appointment of the president, and, through his dependence on them, the virtual appointment to offices—among others, the officers of the judiciary department; they are to make treaties; and they are to try all impeachments. The legislative, executive, and judiciary powers are all blended in one branch of the government. The power of making treaties involves the case of subsidies; and here, as an additional evil, foreign influence is to be dreaded. According to the plan as it now stands, the president will not be the man of the people, as he ought to be, but the minion of the senate. He cannot even appoint a tide-waiter without it. I have always thought the senate too numerous a body for making appointments to office. With all their powers, and the president in their interest, they will depress the other branch of the legislature, and aggrandize themselves in proportion. The new mode of appointing the president by electors is a valuable improvement; but I can never agree to purchase it at the price of the ensuing parts of the report."[1]

[1] Gilpin, 1504, 1505; Elliot, 516.

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CHAP. X. 1787. Sept. 6.

"The mutual connection of the president and senate," said Hamilton, "will perpetuate the one and aggrandize both. I see no better remedy than to let the highest number of ballots, whether a majority or not, appoint the president."[1] The same motion had the day before been offered by Mason,[2] but the convention, especially the smaller states, inflexibly required a majority.

Williamson, to avoid favoring aristocracy in the senate, and yet to secure the assent of the small states, wished to transfer the eventual choice to the legislature, voting by states. To the legislature, Sherman preferred the house of representatives, the members from each state having one vote;[3] and the convention so decided by ten states out of eleven.

Nor would the convention entrust the counting of the votes to the senate alone. By amendments adopted on the sixth,[4] it was thus finally established: "The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted." In every stage of the proceeding the convention suffered no chance for the failure of an election, and had specially guarded against the failure of an election by the negative of one house upon the other, leaving the rules for the conduct of the electoral colleges, or of the two houses when in presence of each other, to be supplied by the familiar experience of the states. On one point, and on one point only, the several states of that day differed in their manner of counting votes.

[1] Gilpin, 1507; Elliot, 517.
[2] Gilpin, 1498, 1499; Elliot, 513.
[3] Gilpin, 1510; Elliot, 519.
[4] Gilpin, 1509, 1513; Elliot, 518, 520.

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In Virginia the ballot of both houses was taken in each house respectively, and the boxes examined jointly by a committee of each house. In Massachusetts the whole work was done by the senators and representatives assembled in one room. On this point, therefore, and on this point only, there was need of a special regulation; and, accordingly, the constitution enjoined the counting of the votes in the presence of the senate and house of representatives after the manner of Massachusetts.[1]

The language of the constitution is a concise, clear, and imperative command: "The votes shall then be counted." The convention is left with no one but itself to interpret its duties and prescribe its rules of

[1] Constitution of VIRGINIA, of 1776. B. P. Poore's edition, 1910, 1911. A governor, or chief magistrate, shall be chosen annually by joint ballot of both houses (to be taken in each house respectively) deposited in the conference room; the boxes examined jointly by a committee of each house, and the numbers severally reported to them that the appointments may be entered (which shall be the mode of taking the joint ballot of both houses, in all cases). . .

A privy council, or council of state, consisting of eight members, shall be chosen by joint ballot of both houses of assembly.

The delegates for Virginia to the continental congress shall be chosen annually, or superseded in the mean time, by joint ballot of both houses of assembly.

The two houses of assembly shall, by joint ballot, appoint judges of the supreme court of appeals, and general court, judges in chancery, judges of admiralty, secretary, and the attorney-general, to be commissioned by the governor, and continue in office during good behavior.

Constitution of MASSACHUSETTS, of 1780. B. P. Poore's edition, 967, 969. Ch. II, Art. II. Nine councillors shall be annually chosen from among the persons returned for councillors and senators, on the last Wednesday in May, by the joint ballot of the senators and representatives assembled in one room.

Ch. II, Art. I. The secretary, treasurer, and receiver-general, and the commissary-general, notaries public, and naval officers, shall be chosen annually, by joint ballot of the senators and representatives, in one room.

Ch. IV. The delegates of this commonwealth to the congress of the United States shall, some time in the month of June, annually, be elected by the joint ballot of the senate and house of representatives assembled together in one room.

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CHAP. IX. 1787. Sept. 6.

action. No power whatever over the counting of the votes is devolved on the house of representatives or on the senate; whatever is granted is granted to the two houses "in the presence of" each other; representing the states and the people according to the compromise adopted for the electoral colleges.

And now the whole line of march to the arrival at the election of a president can be surveyed. The convention at first reluctantly conferred that office on the national legislature; and to prevent the possibility of failure by a negative of one house on the other, to the legislature voting in joint ballot. To escape from danger of cabal and corruption, it next transferred full and final power of choice to an electoral college that should be the exact counterpart of the joint convention of the two houses in the representation of the states as units, as well as the population of the states, and should meet at the seat of government. Then, fearing that so large a number of men would not travel to the seat of government for that single purpose, or might be hindered on the way, they most reluctantly went back to the choice of the president by the two houses in joint convention. At this moment the thought arose that the electors might cast their votes in their own several states, and transmit the certificates of their ballots to the seat of government. Accordingly, the work of electing a president was divided; the convention removed the act of voting from the joint session of the two houses to electoral colleges in the several states, the act of voting to be followed by the transmission of authenticated certificates of the votes to a branch of the general legis-

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lature at the seat of government; and then it restored to the two houses in presence of each other the same office of counting the collected certificates which they would have performed had the whole duty of choosing the president remained with them. Should no one have a majority, the eventual election of the president, to satisfy the rising jealousy of the prerogatives of the senate, was assigned to the house of representatives, and, to please the small states, to the representatives voting by states. And the house of representatives was in the clearest language ordered "immediately" to choose by ballot one of two, when their vote was equal, one of five where no person had a majority. In this way a collision between the two houses, by a negative vote of one on the other, was completely guarded against in every stage of the procedure.[1]

1787. Sept. 6.

[1] When, thirteen years later, this clause came up for consideration, Madison and Baldwin, two surviving members of the grand committee to whom the federal convention had referred everything relating to the choice of the president, left on record their interpretation of the clause. For the opinion of Madison, see Madison to Jefferson, 4 April, 1800, in writings of Madison, ii. 158, where the name "Nicholson's" is erroneously printed for "Nicholas's," as appears from a comparison which has been made of the printed letter with the original. The opinion of Baldwin is found in "Counting Electoral Votes," page 19. Baldwin gives his vote with Langdon and Pinckney, both of whom had been members of the federal convention, for the right of the joint convention to count the votes. By the kindness of Miss Sarah Nicholas Randolph, granddaughter of Governor Wilson Cary Nicholas, of Virginia, and great-granddaughter of Thomas Jefferson, I have been allowed to take from the holograph of Jefferson a copy of his paper on this subject, written by him for the use of W. C. Nicholas when senator from Virginia in congress in 1800.

The question as voted upon in congress in 1800 was decided not by any bearing on the selection of Jefferson or Burr for the presidency, for the party opposed to Jefferson had a majority in each branch, but on the unwillingness of the senate to give to the house of representatives superior weight in the decision of elections. Jefferson, iv. 322. The vice-president was *never* charged with the power to count the votes. The person

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CHAP. IX.

1787. Sept. 6. The almost certain election of the vice-president was secured by declaring the candidate having the most votes to be duly elected. In the extremely improbable case, that two persons should lead all the candidates with an exactly equal number of votes, the election was to devolve on the senate.

7. "Such an officer as vice-president," said Williamson, "is not wanted."[1] To make an excuse for his existence, the convention decreed that he should be president of the senate. "That," said Mason, "is an encroachment on the senate's rights; and, moreover, it mixes too much the legislative and the executive." It was seen that the vice-president brings to the chair of the senate the dignity of one of the two highest officers in the land chosen by the whole country; and yet that he can have no real influence in a body upon which he is imposed by an extraneous vote.

That the vice-president should, in the event of a vacancy, act as president, prevents the need of a new election before the end of the regular term; but an immediate appeal to the people might give a later and truer expression of its wishes.

While the method to be adopted for the election of

who counted the first votes for president and vice-president was no vice-president, but a senator elected by the senate as its officer for that act under a special authority conferred by the constitution for that one occasion when the constitution was to be set in motion.

On any pretence of a right in the vice-president to count the votes, compare the words spoken in the senate by Senator Conkling, 23 and 24 Jan., 1877, and Senator Edmunds, 20 Nov., 1877. The laws of historical criticism require the historian to study the words of the state constitutions from which the article in the United States constitution is taken, and the practice of the state legislatures of that day under the original articles in the state constitutions; and these must decide on the right interpretation of the language employed.

[1] Gilpin, 1517; Elliot, 522.

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CHAP. IX.

the president still engaged the untiring efforts of the convention, it proceeded in the ascertainment of his powers. His style was declared to be "the President of the United States of America;" the clause that his title should be "His Excellency" was still suffered to linger in the draft. He was to be the minister to carry out the will of the legislature, and see that the laws are executed. It was made his duty to give information of the state of the union; and to recommend necessary and expedient measures. He could not prorogue the two branches of the legislature nor either of them; nor appeal to the people by dissolving them. They alone had the power to adjourn; but on extraordinary occasions to him belonged the prerogative to convene them, or to convene the senate alone.

1787. Sept. 7.

Wilson was most apprehensive that the legislature, by swallowing up all the other powers, would lead to a dissolution of the government; no adequate self-defensive power having been granted either to the executive or judicial department.[1] To strengthen the president and raise a strong barrier against rash legislation, Gouverneur Morris would have granted the president a qualified veto on the repeal of a law, an absolute veto on every act of legislation.[2]

Aug. 15.

At the instance of Williamson and Randolph, the convention at first required three fourths of each house to overrule his dissent to a bill, or a joint resolution;[3] but a two thirds vote was now held sufficient after the plan for choosing the president by electors was definitely settled.[4]

Sept. 10.

[1] Gilpin, 1336, 1337; Elliot, 430.
[2] Gilpin, 1335; Elliot, 429.
[3] Gilpin, 1337, 1338; Elliot, 431.
[4] Gilpin, 1564, 1565; Elliot, 538.

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CHAP. IX. 1787. Aug. 25. Sherman had proposed that pardons should require the consent of the senate; but no state except his own was willing thus to restrict the clemency of the president.[1]

27. All agreed that he should be commander-in-chief of the army and the navy; but, at Sherman's instance, he was to command the militia only when it should be called into the actual service of the United States.[2]

The men who made the constitution had taken to heart the lesson that the three great powers, legislative, judicial, and executive, should be lodged in different hands. "Executing the laws and appointing officers," Wilson had said, so early as the first of June, "are strictly executive powers."[3] Yet it seemed needful to keep watch over the president, and Gerry[4] and Sherman had favored the appointment of an executive council.[5] Charles Pinckney proposed that the president should consult the heads of the principal departments.[6] "A superfluous proposition," said Hamilton, "for the president will at any rate have

14. that right." Mercer, on the fourteenth of August, suggested "a council composed of members of both houses of the legislature to stand between the aristocracy and the executive."[7] But the thought did not take root.

The convention was anxious to reconcile a discreet watchfulness over the executive with his independence. In August Ellsworth had recommended a council to be composed of the president of the

[1] Gilpin, 1433; Elliot, 480.
[2] Gilpin, 1434; Elliot, 480.
[3] Gilpin, 763; Elliot, 141.
[4] Ibid.
[5] Gilpin, 782; Elliot, 150.
[6] Gilpin, 811; Elliot, 165.
[7] Gilpin, 1318; Elliot, 421.

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senate, the chief justice, and the ministers, or secretaries as Gouverneur Morris named them, of the foreign, the interior, war, treasury, and navy departments, "to advise, but not conclude the president."[1] Gerry pronounced the nomination of the chief justice particularly exceptionable.[2] Dickinson urged that the great appointments of the heads of departments should be made by the legislature, in which case they might properly be consulted by the executive. The elaborate plan of a council of state which Gouverneur Morris proposed on the twentieth differed from that of Ellsworth mainly in its exclusion of the president of the senate. CHAP. IX. 1787. Aug. 18. 20.

The persistent convention next consulted its committee of detail, which on the twenty-second reported: that "the privy council of the president of the United States shall consist of the president of the senate, the speaker of the house of representatives, the chief justice of the supreme court, and the principal officer in each of five departments as they shall from time to time be established; their duty shall be to advise him in matters which he shall lay before them; but their advice shall not conclude him, nor affect his responsibility."[3] The report did not satisfy the convention, which, still hopeful and persevering, referred the subject to the grand committee of the eleven states. 22.

The report of the committee, made on the fourth of September, did no more than permit the executive to "require the opinion in writing of the principal Sept. 4.

[1] Gilpin, 1358, 1359; Elliot, 442.
[2] Gilpin, 1359; Elliot, 442.
[3] Gilpin, 1398, 1399; Elliot, 462.

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CHAP. IX. 1787. Sept. 7.

officer in each of the executive departments, upon any subject relating to his office."[1] "In rejecting a council to the president," such were the final words of Mason, "we are about to try an experiment on which the most despotic government has never ventured; the Grand Seignior himself has his Divan;" and he proposed an executive council to be appointed by the legislature or by the senate, and to consist of two members from the Eastern, two from the Middle, and two from the Southern states; with a rotation and duration of office similar to those of the senate.[2] He was seconded by Franklin, who "thought a council would be a check on a bad president, a relief to a good one."[3] Wilson "approved of a council, in preference to making the senate a party to appointments." So did Dickinson and Madison; but the motion gained only three states;[4] and then by a unanimous vote the president was authorized to take written opinions of the heads of departments,[5] who thus became his constitutional advisers.

The failure to establish an efficient council led the convention most reluctantly to vest the senate with some control over acts of the executive. On the seventh it was agreed "that the president shall have the power to make treaties by and with the advice and consent of the senate."[6] "And of the house of representatives," Wilson would have added; saying: "As treaties are to have the operation of laws, they ought to have the sanction of laws." But Sherman represented that the necessity of secrecy forbade a refer-

[1] Gilpin, 1488; Elliot, 507.
[2] Gilpin, 1523; Elliot, 525.
[3] Ibid.
[4] Gilpin, 1524; Elliot, 526.
[5] Ibid.
[6] Gilpin, 1518; Elliot, 522.

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ence to both houses, and every state assented except Pennsylvania.[1]

1787. Sept. 7.

It has already been related that to diminish the temptation to war, the power to declare it was confided to the legislature. In treaties of peace, Madison, fearing in a president a passion for continuing war, proposed to dispense with his concurrence. "The means of carrying on the war," said Gorham, "will not be in the hands of the president, but of the legislature." "No peace," insisted Gouverneur Morris, "ought to be made without the concurrence of the president, who is the general guardian of the nation." And Maryland, South Carolina, and Georgia alone voted for the amendment.[2]

On the seventh, the advice and consent of the senate was, by a unanimous vote, required for the appointment of ambassadors, other public ministers, consuls, and judges of the supreme court;[3] and for all other officers of the United States by nine states against Pennsylvania and South Carolina.[4] But eight days later the legislature was authorized to vest the appointment of inferior officers in the president alone, in the courts of law, or in the heads of departments.[5]

7.

15.

All agreed in giving the president power to fill up, temporarily, vacancies that might happen during the recess of the senate.[6]

Had the consent of the senate been made necessary to displace as well as to appoint, the executive would have suffered degradation; and the relative impor-

[1] Gilpin, 1518; Elliot, 523.
[2] Gilpin, 1521, 1522; Elliot, 524, 525.
[3] Gilpin, 1520; Elliot, 523, 524.
[4] Gilpin, 1520; Elliot, 524.
[5] Gilpin, 1588, 1589; Elliot, 550.
[6] Gilpin, 1520; Elliot, 524.

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CHAP. IX. 1787. Sept. 7.

tance of the house of representatives a grave diminution. To change the tenure of office from the good opinion of the president, who is the employer and needs efficient agents in executing the laws, to the favor of the senate, which has no executive powers, would create a new fealty alien to the duties of an officer of the United States.

"The three distinct powers, legislative, judicial, and executive," said Ellsworth, as senator, in 1789, explaining the constitution which he had done so much to frame, "should be placed in different hands. *He shall take care that the laws be faithfully executed,* are sweeping words. The officers should be attentive to the president, to whom the senate is not a council. To turn a man out of office is an exercise neither of legislative nor of judicial power; it is like a tree growing upon land that has been granted. The advice of the senate does not make the appointment; the president appoints: there are certain restrictions in certain cases, but the restriction is as to the appointment and not as to the removal."[1]

Aug. 22.

One question on the qualifications of the president was among the last to be decided. On the twenty-second of August the committee of detail, fixing the requisite age of the president at thirty-five, on their own motion and for the first time required only that the president should be a citizen of the United States, and should have been an inhabitant of them for twenty-one years.[2] On the fourth of September the committee of states who were charged with all un-

Sept. 4.

[1] MS. report of Ellsworth's speech by William Paterson.

[2] Gilpin, 1398; Elliot, 462.

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finished business limited the years of residence to fourteen.[1] It was then objected that no number of years could properly prepare a foreigner for that place; but as men of other lands had spilled their blood in the cause of the United States, and had assisted at every stage of the formation of their institutions, on the seventh of September it was unanimously settled that foreign-born residents of fourteen years who should be citizens at the time of the formation of the constitution are eligible to the office of president.[2] CHAP. IX. 1787. Sept. 4. 7.

No majorities of the legislature could force a president to retire before the end of his term; but he might be impeached by the house of representatives for treason, bribery, or other high crimes and misdemeanors. The tribunal for his arraignment was at first the supreme court of the United States; but they would be few in number; the president, after condemnation, would come before them on his acts; and besides, they would be of his appointment. Hamilton had suggested a forum composed of the chief justice of each state.[3] Contrary to the opinion of Madison, the English precedent was followed, and the senate was made the court to try all officers liable to impeachment; and, on conviction by a two thirds vote, to remove them. As the vice-president, on the president's removal, would succeed to his place, the chief justice was directed to preside on the trial.

At so late a day as the fourteenth of September, Rutledge and Gouverneur Morris moved that per- 14.

[1] Gilpin, 1487; Elliot, 507.
[2] Gilpin, 1516; Elliot, 521.
[3] Gilpin, 892, 1158; Elliot, 305, 342.

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CHAP. IX. 1787. Sept. 14.

sons impeached be suspended from their offices until they be tried and acquitted; but Madison defeated the proposition by pointing out that this intermediate suspension would put it in the power of one branch only to vote a temporary removal of the existing magistrate.[1]

Judgment in cases of impeachment could extend only to removal from office and disqualification; but the party remained liable to indictment, trial, and punishment, according to law. The trial of all crimes, except in cases of impeachment, could be only by jury.

[1] Gilpin, 1572; Elliot, 542.

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CHAPTER X.

THE FEDERAL JUDICIARY.

THE resolution on the federal judiciary which went from the convention to the committee of detail purposely described the extent of its jurisdiction in vague and general terms. The very able lawyers on that committee, Rutledge, Wilson, Randolph, and Ellsworth, proceeding with equal boldness and precision, shrinking from aggressions on the rights of the states and yet entertaining efficient and comprehensive designs, brought in a report, which caused little diversity of opinion, and was held to need no essential amendment. But on one point they kept silence. A deeply-seated dread of danger from hasty legislation pervaded the mind of the convention; and Mason, Madison, and others persistently desired to vest in the supreme court a revisionary power over the acts of congress, with an independent negative, or a negative in conjunction with the executive. Though the measure had been repeatedly brought forward and as often put aside, Madison, on the fifteenth of August, proposed once more that "Every bill which shall have passed the two houses shall,

1787. Aug. 15.

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CHAP. X. 1787. Aug. 15. before it becomes a law, be severally presented to the president of the United States, and to the judges of the supreme court, for the revision of each;"[1] the veto of the judges not to be overthrown by less than two thirds, nor, if the president joined them, by less than three fourths of each house. He was seconded by Wilson.

Charles Pinckney opposed the interference of the judges in legislation, because it would involve them in the conflict of parties and tinge their opinions before their action in court. "The judiciary," said John Francis Mercer, of Maryland, "ought to be separate from the legislative and independent of it. I disapprove the doctrine that the judges should, as expositors of the constitution, have authority to declare a law void. Laws ought to be well and cautiously made, and then to be uncontrollable."[2] To the regret of Gouverneur Morris, the motion of Madison carried only Maryland, Delaware, and Virginia. Dickinson was strongly impressed with the objection to the power of the judges to set aside the law. He thought no such power ought to exist, but was at a loss for a substitute. "The justiciary of Aragon," he observed, "became by degrees the law-giver."[3]

20. On the morning of the twentieth Charles Pinckney submitted numerous propositions; among them was one that "Each branch of the legislature, as well as the supreme executive, shall have authority to require the opinions of the supreme judicial court upon important questions of law, and upon solemn occa-

[1] Gilpin, 1332; Elliot, 428.
[2] Gilpin, 1333; Elliot, 429.
[3] Gilpin, 1334; Elliot, 429.

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sions."[1] This article, as well as the rest, was referred to the committee of detail, without debate or consideration by the house, and was never again heard of. CHAP. X. 1787. Aug. 27.

On the twenty-seventh the article on the judiciary reported by the committee of detail was taken up; and it was agreed that "the judicial power of the United States shall be vested in one supreme court, and such inferior courts as shall, when necessary, from time to time, be constituted by the legislature of the United States."[2] "The judges of the supreme court, and of the inferior courts, shall hold their offices during good behavior. They shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office."[3] Judges of inferior courts were clothed with the same independence of the two other branches of the government as the judges of the supreme court.

Dickinson thought that the tenure of office was made too absolute; and, following the example of Great Britain and Massachusetts, he desired that the judges should be removable by the executive on application of the senate and the house of representatives.[4] "If the supreme court," said Rutledge, "is to judge between the United States and particular states, this alone is an insuperable objection to the motion." The clause gained no vote but that of Connecticut, Massachusetts being absent. In England the highest judicial officer is liable to change with every change of administration, and every one

[1] Gilpin, 1365; Elliot, i. 249.
[2] Gilpin, 1435. As the phrase "law and equity" is repeated in section 3, it is omitted here. Elliot, 481.
[3] Gilpin, 1437; Elliot, 482.
[4] Gilpin, 1436; Elliot, 481.

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CHAP. X. 1787. Aug. 27.

may be removed on the request of a majority in each house of parliament; every judge of the United States, from the highest to the lowest, is an officer for life; unless on impeachment convicted with the concurrence of two thirds of the senate.

The judicial power was by a motion of Johnson extended to cases in law and equity. He further proposed to extend it "to all cases arising under the constitution;" and the motion was agreed to without dissent, because in the opinion of the convention the jurisdiction given was constructively limited to cases of a judiciary nature.[1]

In this way Madison's scheme of restraining unconstitutional legislation of the states by reserving to the legislature of the union a veto on every act of state legislation was finally abandoned; and the power of revising and reversing a clause of a state law that conflicted with the federal constitution was confided exclusively to the federal judiciary, but only when a case should be properly brought before the court. The decision of the court in all cases within its jurisdiction is final between the parties to a suit, and must be carried into effect by the proper officers; but, as an interpretation of the constitution, it does not bind the president or the legislature of the United States. Under the same qualification the constitution gives to the judges the power to compare any act of congress with the constitution. But the supreme bench can set aside in an act of congress or of a state only that which is at variance with the constitution; if it be merely one clause, or even but

[1] Gilpin, 1438, 1439; Elliot, 488.

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one word, they can overrule that word or that clause, and no more. The whole law can never be set aside unless every part of it is tainted with unconstitutionality.[1] 1787. Aug. 27.

Rutledge next added that the jurisdiction of the court should extend to treaties made, or to be made, under the authority of the United States; and this proposal was readily adopted.[2]

The proposition that the courts should conduct the trial of impeachments was put aside, and that duty was afterward assigned to the senate. Two clauses in the report of the committee of detail, which, after a precedent in the confederacy, confided to the senate the settlement of all controversies between two or more states respecting jurisdiction or territory, and all controversies concerning grants of the same lands by two or more states, were in the course of the discussion removed from the senate and made over to the federal courts.

In constructing the judiciary, extreme care was taken to keep out of the United States courts all questions which related to matters that began and ended within a separate commonwealth. This intention is stamped alike on the federal proposals of Virginia, of New Jersey, and of Connecticut; it was carefully respected in those clauses which limit the action of the individual states.

The original jurisdiction of the supreme court embraces only cases affecting ambassadors, other public ministers and consuls. Cases in which a state should be a party were added for the single purpose of

[1] Curtis in Howard, xix. 628.

[2] Gilpin, 1439; Elliot, 483.

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CHAP. X. 1787. Aug. 27.

authorizing a state as plaintiff to seek justice in a federal court; it was as little intended to permit individuals to bring a state there as a defendant as to arraign an ambassador. The appellate power included cases of admiralty and maritime jurisdiction. In these three classes the jurisdiction of the court, original in two of them, appellate in the third, is in imperative language extended "to all cases." But as "to controversies to which the United States shall be a party; to controversies between two or more states; between a state and citizens of another state; between citizens of different states; between citizens of the same state claiming lands under grants of different states, and between a state or the citizens thereof and foreign states, citizens or subjects," the judicial power is limited. The section implies that only a part of the controversies in each of the enumerated classes may come under the jurisdiction of the federal courts; and it was left to the federal legislature to make the discrimination which in its judgment public policy might dictate.[1] Here congress, and congress alone, selects the controversies to which the appellate judicial power may extend, and at its own judgment limits the right of appeal. The convention purposely made it the duty of congress to watch over the development of the system, and restrict accordingly the appellate jurisdiction. By reserving to the tribunals of the states jurisdiction over cases that may properly belong to them, it may rescue the federal court from the danger of losing its efficiency beneath unmanageable masses of business.

[1] Story in Curtis, iii. 569; Ellsworth in Curtis, i. 243.

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CHAP. X.

The method of choosing the federal judiciary was settled without strife. The motion for its appointment by the executive, with the advice and consent of the senate, when first proposed, gained an equal vote; and on the seventh of September was agreed to without a division.[1] 1787. Sept. 7.

The supreme court was to be the "bulwark of a limited constitution against legislative encroachments."[2] A bench of a few, selected with care by the president and senate from the nation, seemed a safer tribunal than a multitudinous assembly elected for a short period under the sway of passing currents of thought, or the intrepid fixedness of an uncompromising party. There always remains danger of erroneous judgments, arising from mistakes, imperfect investigation, the bias of previous connections, the seductions of ambition, or the instigations of surrounding opinions; and a court from which there is no appeal is apt to forget circumspection in its sense of security. The passage of a judge from the bar to the bench does not necessarily divest him of prejudices; nor chill his relations to the particular political party to which he may owe his advancement; nor blot out of his memory the great interests which he may have professionally piloted through doubtful straits; nor quiet the ambition which he is not required to renounce, even though his appointment is for life; nor cure predilections which sometimes have their seat in his own inmost nature.

But the constitution retains the means of protecting itself against the errors of partial or interested

[1] Gilpin, 1520; Elliot, 524. [2] Federalist, lxxviii.

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CHAP. X. 1787. Sept. 7.

judgments. In the first place, the force of a judicial opinion of the supreme court, in so far as it is irreversible, reaches only the particular case in dispute; and to this society submits, in order to escape from anarchy in the daily routine of business. To the decision on an underlying question of constitutional law no such finality attaches. To endure, it must be right. If it is right, it will approve itself to the universal sense of the impartial. A judge who can justly lay claim to integrity will never lay claim to infallibility; but with indefatigable research will add, retract, and correct whenever more mature consideration shows the need of it.[1] The court is itself inferior and subordinate to the constitution; it has only a delegated authority, and every opinion contrary to the tenor of its commission is void, except as settling the case on trial. The prior act of the superior must be preferred to the subsequent act of an inferior; otherwise it might transform the limited into an unlimited constitution. When laws clash, the latest law is rightly held to express the corrected will of the legislature; but the constitution is the fundamental code, the law of laws; and where there is a conflict between the constitution and a decision of the court, the original permanent act of the superior outweighs the later act of the inferior, and retains its own supreme energy unaltered and unalterable except in the manner prescribed by the constitution itself. To say that a court, having discovered an error, should yet cling to it because it has once been delivered as its opinion, is to invest caprice with inviolability and make a wrong

[1] Wilson's Works, i. 29.

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judgment of a servant outweigh the constitution to which he has sworn obedience. An act of the legislature at variance with the constitution is pronounced void; an opinion of the supreme court at variance with the constitution is equally so. CHAP. X. 1787. Sept. 7.

Next to the court itself, the men who framed the constitution relied upon the power and the readiness of congress to punish through impeachment the substitution of the personal will of the judge for the law.

A third influence may rise up "as the rightful interpreter of this great charter" of American rights and American power in "the good sense"[1] of the land, wiser than the judges alone, because it includes within itself the wisdom of the judges themselves; and this may lead either to the better instruction of the court, or to an amendment of the constitution by the collective mind of the country.

The consolidation of the union was to be made visible to the nation and the world by the establishment of a seat of government for the United States under their exclusive jurisdiction; and like authority was to be exercised over all places purchased for forts, dock-yards, and other needful buildings.[2] It was not doubted that the government of the union should defend each state against foreign enemies and concurrently against domestic violence; and should guarantee to every one of the states the form of a republic.[3]

[1] Cooley's Constitutional Law, 224; Curtis, iv. 390.

[2] Gilpin, 740, 1218, 1295, 1612; Elliot, 130, 374, 409, 561.

[3] Gilpin, 734, 861, 1141, 1241, 1621; Elliot, 128, 190, 333, 381, 564.

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CHAP. X. 1787. Sept. 8. Sherman hesitated about granting power to establish uniform laws on the subject of bankruptcies, lest they might be made punishable even with death. "This," said Gouverneur Morris, "is an extensive and delicate subject. I see no danger of abuse of the power by the legislature of the United States."[1] On the question the clause was agreed to, Connecticut alone being in the negative.

8. So soon as the small states secured an equal representation in the senate, they ceased to be jealous of its influence on money bills; finally, on the eighth of September, it was settled unanimously that, while the initiative of bills for raising revenue should be confined to the house of representatives, the senate might propose amendments as on other bills, and originate bills for appropriations.[2]

On the same day, just before the adjournment, Williamson strove to increase the number of the first house of representatives; and was seconded by Madison. Hamilton spoke with earnestness and anxiety for the motion. "I am," said he, "a friend to a vigorous government; at the same time I hold it essential that the popular branch of the government should rest on a broad foundation. The house of representatives is on so narrow a scale as to warrant a jealousy in the people for their liberties. The connection between the president and the senate will tend to perpetuate him by corrupt influence; on this account a numerous representation in the other branch of the legislature should be established." The motion

[1] Gilpin, 1481; Elliot, 504.
[2] Gilpin, 1494, 1530, 1531; Elliot, 510, 529; Elliot, i. 285, 294, 295.

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was lost by one majority; Pennsylvania and the four states nearest her on the south being outvoted by New Jersey and the New England states at one extreme, and South Carolina and Georgia at the other.[1] 1787. Sept. 8.

It remained to mark out the way in which the new constitution should be ratified. The convention had shown a disinclination to ask for it the approbation of congress. Hamilton saw in the omission an indecorum, and made the rash motion that congress, if they should agree to the constitution, should transmit it for ratification to the legislatures of the several states. Gerry seconded him.[2] Wilson strongly disapproved "the suspending the plan of the convention on the approbation of congress." He declared it worse than folly to rely on the concurrence of the Rhode Island members of congress. Maryland had voted, on the floor of the convention, for requiring the unanimous assent of the thirteen states to the change in the federal system; for a long time New York had not been represented; deputies from other states had spoken against the plan. "Can it then be safe to make the assent of congress necessary? We are ourselves, at the close, throwing insuperable obstacles in the way of its success."[3] Clymer thought the proposed mode would fetter and embarrass congress; and King and Rutledge concurring with him, Hamilton's motion was supported only by Connecticut.[4] It was then voted, in the words of the report of the committee of detail: "This constitution shall be laid before the United States in congress assembled; and 10.

[1] Gilpin, 1533; Elliot, 530.
[2] Gilpin, 1539; Elliot, 533.
[3] Gilpin, 1540; Elliot, 534.
[4] Gilpin, 1541; Elliot, 534.

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CHAP. X. 1787. Sept. 10.

it is the opinion of this convention that it should be afterward submitted to a convention chosen in each state, under the recommendation of its legislature, in order to receive the ratification of such convention." In substance this method was never changed; in form it was removed from the constitution and embodied in a directory resolution.[1]

Randolph now began to speak of the constitution as a plan which would end in tyranny; and proposed that the state conventions, on receiving it, should have power to adopt, reject, or amend it; after which another general convention should meet with full power to adopt or reject the proposed alterations, and to establish finally the government. Franklin seconded the motion.[2] Out of respect to its authors, the proposition was allowed to remain on the table; but by a unanimous vote it was ordered that the constitution should be established on its ratification by the conventions of nine states.[3] Finally, a committee of five was appointed to revise its style and the arrangement of its articles.

[1] Art. xxii. of draft of the constitution submitted to the committee of revision, Sept. 10th. Gilpin, 1570; Elliot, 541.

[2] Gilpin, 1542; Elliot, 535.

[3] Gilpin, 1571; Elliot, 541.

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CHAPTER XI.

THE LAST DAYS OF THE CONVENTION.

SEPTEMBER 12 TO SEPTEMBER 17, 1787.

THE committee to whom the constitution was referred for the arrangement of its articles and the revision of its style were Johnson, Hamilton, Gouverneur Morris, Madison, and King. The final draft of the instrument was written by Gouverneur Morris,[1] who knew how to reject redundant and equivocal expressions, and to use language with clearness and vigor; but the convention itself had given so minute, long-continued, and oft-renewed attention to every phrase in every section, that there scarcely remained room for improvement except in the distribution of its parts.

Its first words are: "We the people of the United States, in order to form a more perfect union, to establish justice, ensure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this

[1] G. Morris to T. Pickering, 22 Dec., 1814, in Life by Sparks, iii. 328.

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CHAP. XI. 1787. Sept. 12.

constitution for the United States of America." Here is no transient compact between parties: it is the institution of government by an act of the highest sovereignty; the decree of many who are yet one; their law of laws, inviolably supreme, and not to be changed except in the way which their forecast has provided.

The names of the thirteen states, so carefully enumerated in the articles of confederation and in the treaty of peace, were omitted, because the constitution was to go into effect on its acceptance by nine of them, and the states by which it would be ratified could not be foreknown. The deputies in the convention, representing but eleven states, did not pretend to be "the people;" and could not institute a general government in its name. The instrument which they framed was like the report of a bill beginning with the words "it is enacted," though the binding enactment awaits the will of the legislature; or like a deed drawn up by an attorney for several parties, and awaiting its execution by the principals themselves. Only by its acceptance could the words "we the people of the United States" become words of truth and power.

The phrase "general welfare,"[1] adopted from the articles of confederation, though seemingly vague, was employed in a rigidly restrictive sense to signify "the concerns of the union at large, not the particular policy of any state."[2] The word "national" was excluded from the constitution, because it might seem

[1] Gilpin, 1548; Elliot, 558.

[2] Washington to William Gordon, 8 July, 1783.

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to present the idea of the union of the people without at the same time bringing into view, that the one republic was formed out of many states. Toward foreign powers the country presented itself as one nation. 1787. Sept. 12.

The arrangement of the articles and sections is faultless; the style of the whole is nearly so. The branches of the legislature are definitively named senate and house of representatives, the senate, at last, having precedence; the two together take the historic name of congress.

The veto of the president could still be overruled only by three fourths of each branch of congress; the majority of the convention, fearing lest so large a requisition would impose too great a difficulty in repealing bad laws,[1] at this last moment substituted the vote of two thirds.

Williamson pointed out the necessity of providing for juries in civil cases.[2] "It is not possible," said Gorham, "to discriminate equity cases from those in which juries would be proper; and the matter may safely be trusted to the representatives of the people."[3] Gerry urged the necessity of juries as a safeguard against corrupt judges. "A general principle laid down on this and some other points would be sufficient," said Mason, and he joined with Gerry in moving for a bill of rights.

The declaration of American independence, by the truths which it announced, called forth sympathy in all parts of the world. Could the constitution of the United States have been accompanied by a like sol-

[1] Gilpin, 1563; Elliot, 537.
[2] Gilpin, 1565; Elliot, 538.
[3] Gilpin, 1565; Elliot, 538.

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CHAP. XI.

1787. Sept. 12. emn declaration of the principles on which it rested, the states would have been held together by the holiest and strongest bonds.[1] But, in the absence of Massachusetts, the motion was lost by a unanimous vote.

The style of the executive, as silently carried forward from the committee of detail, was still "his Excellency;" this vanished in the committee of revision, so that he might be known only as the president of the United States.

13. Following a precedent of the first congress, Mason, on the thirteenth, seconded by Johnson, moved for a committee to report articles of association for encouraging economy, frugality, and American manufactures.[2] It was adopted without debate and without opposition. The proposal was referred to Mason, Franklin, Dickinson, Johnson, and William Livingston; but no report was made.

[1] Here manuscripts and printed texts differ in an astonishing manner.

Manuscript Journal.

It was moved and seconded to appoint a committee to prepare a bill of rights, which passed in the negative.

Text in Elliot, i. 306.

It was moved and seconded to appoint a committee to prepare a bill of rights; which passed UNANIMOUSLY in the negative.

Manuscript of Madison.

On the question for a committee to prepare a bill of rights—

N. H. no, Mas. abst., Ct. no, N. J. no, Pa. no, Del. no, Md. no, Va. no, N. C. no, S. C. no, Geo. no.

Text in Gilpin, 1566. *Elliot*, 538.

On the question for a committee to prepare a bill of rights—

New Hampshire, Connecticut, New Jersey, Pennsylvania, Delaware, aye—5; Maryland, Virginia, North Carolina, South Carolina, Georgia, no—5; Massachusetts, absent.

The manuscript of Madison, which is plainly written, represents the motion as negatived unanimously; the printed edition, as lost by a purely geographical division. The change remains as yet a mystery.

[2] Gilpin, 1568; Elliot, 540.

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CHAP. XI.

From the work of the committee of detail the word "servitude" survived as applied to the engagement to labor for a term of years; on the motion of Randolph the word "service" was unanimously substituted for it, servitude being thought to express the condition of slaves, service an obligation of free persons.[1] 1787. Sept. 13.

On the same day Johnson, from the committee on style, reported[2] resolutions for the ratification of the constitution through congress by conventions of the people of the several states; and then for the election of senators, representatives, and electors, and through them of president. Nothing was omitted to make it certain that at a fixed time and place the government under the constitution would start into being.

On the fourteenth it was confirmed without dissent that congress should have no right to change the places of the election of senators. 14.

The appointment of the treasurer as the keeper of the purse had thus far been jealously reserved to the two houses of congress.[3] It marks the confidence of the convention in its own work, that at this period the selection of that officer was confided to the president and senate.

On the same day Franklin, seconded by Wilson, moved to add, after the authority to establish post-offices and post-roads, a power "to provide for cutting canals."[4] "The expense," objected Sherman, "will fall on the United States, and the benefit accrue to the

[1] Gilpin, 1233, 1544, 1569; Elliot, 379, 540, 559.
[2] Gilpin, 1570, 1571; Elliot, 541.
[3] Gilpin, 1574; Elliot, 542.
[4] Gilpin, 1576; Elliot, 548.

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CHAP. XI. 1787. Sept. 14.

places where the canals are cut." "Canals," replied Wilson, "instead of being an expense to the United States, may be made a source of revenue." Madison, supported by Randolph, suggested an enlargement of the motion into a warrant to grant charters of incorporation which might exceed the legislative provisions of individual states, and yet be required by the interest of the United States; political obstacles to an easy communication between the states being removed, a removal of natural ones ought to follow.[1] The necessity of the power was denied by King. "It is necessary," answered Wilson, "to prevent a state from obstructing the general welfare." "The states," rejoined King, "will be divided into parties to grant charters of incorporation, in Philadelphia and New York to a bank, in other places to mercantile monopolies."[2] Wilson insisted on the importance of facilitating by canals the communication with the western settlements.[3] The motion, even when limited to the case of canals, gained no votes but those of Pennsylvania, Virginia, and Georgia.[4]

Madison and Charles Pinckney asked for congress permission to establish a university in which no preferences should be allowed on account of religion. "The exclusive power of congress at the seat of government will reach the object," said Gouverneur Morris. The motion was sustained only by Pennsylvania, Virginia, and North and South Carolina; in Connecticut, Johnson divided against Sherman.[5]

In framing the constitution, Madison kept in mind

[1] Gilpin, 1576; Elliot, 544.
[2] Ibid.
[3] Gilpin, 1577; Elliot, 544.
[4] Gilpin, 1577; Elliot, 544.
[5] Gilpin, 1577, 1578; Elliot, 544.

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CHAP. XI.

1787. Sept. 14.

that the functions of the general government should extend to the prevention of "trespasses of the states on the rights of each other."[1] "The rights of individuals," he said in the convention, "are infringed by many of the state laws, such as issuing paper money, and instituting a mode to discharge debts differing from the form of the contract."[2] It has already been told how the delegates from Connecticut had agreed among themselves "that the legislatures of the individual states ought not to possess a right to make any laws for the discharge of contracts in any manner different from the agreement of the parties."[3] Stringent clauses in the constitution already prohibited paper money. For the rest, King, as we have seen, proposed a clause forbidding the states to interfere in private contracts; but the motion had been condemned as reaching too far; and instead of it, at the instance of Rutledge, the convention denied to the states the power "to pass bills of attainder or *ex post facto* laws."[4] In this manner it was supposed that laws for closing the courts, or authorizing the debtor to pay his debts by more convenient instalments than he had covenanted for, were effectually prohibited. But Dickinson, as we have seen, after consulting Blackstone, mentioned to the house that the term *ex post facto* related to criminal cases only; and that restraint of the states from retrospective laws in civil cases would require some further provision.[5] Before an explanatory provision had been

[1] Madison, i. 321.

[2] Yates's Minutes, Elliot, i. 424, 425. Compare Gilpin, 898; Elliot, 208.

[3] Sherman by J. Evarts in Biography of the Signers, ii. 43.

[4] Elliot, i. 271.

[5] Gilpin, 1450; Elliot, 488.

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CHAP. XI. 1787. Sept. 14. made, the section came into the hands of the committee on revision and style. That committee had no authority to bring forward any new proposition, but only to make corrections of style. Gouverneur Morris retained the clause forbidding *ex post facto* laws; and, resolute not "to countenance the issue of paper money and the consequent violation of contracts,"[1] he of himself added the words: "No state shall pass laws altering or impairing the obligation of contracts." The convention reduced the explanatory words to the shorter form: "No state shall pass any law impairing the obligation of contracts."[2] In this manner an end was designed to be made to barren land laws, laws for the instalment of debts, and laws closing the courts against suitors. Sherman and Ellsworth, in their official letter recommending the constitution to Connecticut, explained the intent of the convention by saying: "The restraint on the legislatures of the several states respecting emitting bills of credit, making anything but money a tender in payment of debts, or impairing the obligation of contracts by *ex post facto* laws, was thought necessary as a security to commerce, in which the interest of foreigners as well as of the citizens of different states may be affected."[3]

15 From fresh information it appeared to Sherman that North Carolina was entitled to another representative; and Langdon moved to allow one more member to that state, and likewise one more to Rhode

[1] G. Morris by Sparks, iii. 323.

[2] Gilpin, 1552, 1581; Elliot, 546, 561.

[3] Roger Sherman and Oliver Ellsworth, delegates from Connecticut in the federal convention, to the governor of said state, New London, 26 Sept., 1787. Elliot, i. 491, 492.

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Island.[1] "If Rhode Island is to be allowed two members," said King, "I can never sign the constitution."

Charles Pinckney urged separately the just claim of North Carolina; on which Bedford put in a like claim for Rhode Island and for Delaware; and the original proposition was hopelessly defeated.[2]

Randolph and Madison disliked leaving the pardon for treason to the president alone; but the convention would not suffer the legislature or the senate to share that power.[3]

The committee of revision had described a fugitive slave as "a person legally held to service or labor in one state." The language seemed to imply that slavery was a "legal" condition; the last word of the convention relating to the subject defined the fugitive slave to be "a person held to service or labor in one state under the laws thereof," making it clear that, in the meaning of the constitution, slavery was local and not federal.[4]

The convention gave the last touches to the modes of amending the constitution. In August the committee of detail had reported that, "on the application of the legislatures of two thirds of the states in the union, the legislature of the United States shall call a convention for that purpose."[5] On the thirtieth day of August, Gouverneur Morris had suggested that congress "should be at liberty to call a convention whenever it pleased."[6] "An easier mode of in- 10.

[1] Gilpin, 1583; Elliot, 547.
[2] Gilpin, 1583, 1584; Elliot, 547.
[3] Gilpin, 1587; Elliot, 549.
[4] Gilpin, 1558, 1589, 1620; Elliot, 550, 564.
[5] Gilpin, 1241; Elliot, 381.
[6] Gilpin, 1468; Eillot, 498.

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CHAP. XI. 1787. Sept. 10.

troducing amendments," said Hamilton, reviving the question, "is desirable. The state legislatures will not apply for alterations but with a view to increase their own powers. The national legislature will be the first to perceive the necessity of amendments; and on the concurrence of each branch ought to be empowered to call a convention, reserving the final decision to the people."[1] Madison supported Hamilton.

Here Sherman suggested an alternative: the legislature may propose amendments directly to the several states, not to be binding until consented to by them all.[2] "To be binding when consented to by two thirds of the several states," interposed Wilson. To facilitate amendments, the convention authorized two thirds of congress to introduce amendments to the constitution; but, to prevent hasty changes, required for their ratification the assent of three fourths of the legislatures or conventions of the states.

Madison, summing up the ideas that had found favor, moved that the legislature of the United States, upon a vote of two thirds of both houses, or upon the application of two thirds of the legislatures of the states, shall propose amendments to the constitution which shall be valid when they shall have been ratified by three fourths at least of the several states in their legislatures or conventions, as one or the other mode of ratification may be proposed by the legislature of the United States.[3]

This motion was accepted, but not till it had been agreed that the clauses in the constitution forming

[1] Gilpin, 1534; Elliot, 531.
[2] Gilpin, 1535; Elliot, 531.
[3] Gilpin, 1535; Elliot, 531.

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special covenants with the South on slavery should not be liable to change. Five days later the fears of the small states were quieted by a proviso that no state without its own consent should ever be deprived of its equality in the senate.[1] 1787. Sept. 15.

Finally, on maturest reflection, the proposition of the committee of detail, obliging congress to call a convention on application of two thirds of the states, was restored. Amendments to the constitution might proceed from the people as represented in the legislatures of the states; or from the people as represented in congress; or from the people as present in a convention; in every case to be valid only with the assent of three fourths of the states.

Mason, in sullen discontent at the grant of power to a bare majority of congress to pass navigation acts, and dreading that "a few rich merchants in Philadelphia, New York, and Boston" might by that means monopolize the staples of the southern states and reduce their value perhaps fifty per cent, moved "that no law in the nature of a navigation act be passed before the year eighteen hundred and eight, without the consent of two thirds of each branch of the legislature;" but he was supported only by Maryland, Virginia, and Georgia.[2]

Next, Randolph, whose weight as governor of Virginia might turn the scale in that state, declared his intention to withhold his signature from the constitution that he might retain freedom as to his ultimate action; and, agreeing exactly with Richard Henry

[1] Gilpin, 1592; Elliot, 552.

[2] Gilpin, 1593; Elliot, 552.

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CHAP. XI. 1787. Sept. 15.

Lee,[1] he moved "that state conventions might have the power to offer to the constitution which was to be laid before them as many amendments as they pleased; and that these amendments, together with the constitution, should be submitted to another general convention"[2] for a final decision. He was seconded by Mason, who said: "The government as established by the constitution will surely end either in monarchy or a tyrannical aristocracy. As it now stands, I can neither give it my support in Virginia, nor sign it here. With the expedient of another convention I could sign."[3]

"I, too," said Charles Pinckney, "object to the power of a majority of congress over commerce; but, apprehending the danger of a general confusion and an ultimate decision by the sword, I shall give the plan my support." Then Gerry counted up eight objections to the constitution, "all" of which he could yet get over, were it not that the legislature had general power to make "necessary and proper" laws, to raise "armies and money" without limit, and to establish "a star chamber as to civil cases;" and he, too, contended for a second general convention.

On the proposition for another convention all the states answered "No." Washington then put the question of agreeing to the constitution in its present form; and all the states present answered "Aye." The constitution was then ordered to be engrossed, and late on the evening of Saturday the house adjourned.[4]

[1] Compare R. H. Lee to Chancellor Pendleton, 22 May, 1788, in Life, ii. 93, 94.

[2] Gilpin, 1593; Elliot, 552.

[3] Gilpin, 1594; Elliot, 552, 553.

[4] Gilpin, 1595; Elliot, 553.

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One morning Washington, in a desultory conversation with members of the convention before the chair was taken, observed how unhappy it would be should any of them oppose the system when they returned to their states.[1] On Monday, the seventeenth of September, Franklin made a last effort to win over the dissenting members. "Mr. President," said he, "several parts of this constitution I do not at present approve, but I am not sure I shall never approve them. It astonishes me to find this system approaching so near to perfection. I consent to this constitution because I expect no better, and because I am not sure that it is not the best. The opinions I have had of its errors I sacrifice to the public good.

Sept. 17.

"On the whole, sir, I cannot help expressing a wish that every member of the convention, who may still have objections to it, would with me on this occasion doubt a little of his own infallibility, and, to manifest our unanimity, put his name to this instrument."[2] He then moved that the constitution be signed by the members; and he offered as the form of signature a simple testimony that the constitution had received "the unanimous consent of the states present."[3] But this ample concession induced neither Mason, nor Gerry, nor Randolph to relent.

Before the question was put, Gorham, obeying an intimation from Washington, proposed to render the house of representatives a more popular body by allowing one member for every thirty thousand inhabi-

[1] Luther Martin in Maryland Journal of 21 March, 1788.

[2] Gilpin, 1597, 1598; Elliot, 554, 555.

[3] Gilpin, 1598; Elliot, 555.

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tants. He was warmly seconded by King and Carroll.[1]

1787. Sept. 17.

Rising to put the question, the president, after an apology for offering his sentiments, said: "I would make objections to the plan as few as possible. The smallness of the number of representatives has been considered by many members as insufficient security for the rights and interests of the people; and to myself has always appeared exceptionable; late as is the moment, it will give me much satisfaction to see the amendment adopted unanimously."[2] And at his word it was so adopted.

On the question to agree to the engrossed constitution, all the states answered "Aye."[3]

Randolph then apologized for refusing to sign the constitution, "notwithstanding the vast majority and the venerable names which gave sanction to its wisdom and its worth. I do not mean by this refusal," he continued, "to decide that I shall oppose the constitution without doors; I mean only to keep myself free to be governed by my duty, as it shall be prescribed by my future judgment."[4]

"I, too, had objections," said Gouverneur Morris; "but considering the present plan the best that can be obtained, I shall take it with all its faults. The moment it goes forth, the great question will be: 'Shall there be a national government, or a general anarchy?'"

"I am anxious," said Hamilton, "that every member should sign. A few by refusing may do infinite

[1] Gilpin, 1599; Elliot, 555.
[2] Gilpin, 1599, 1600; Elliot, 555, 556.
[3] Gilpin, 1600; Elliot, 556.
[4] Ibid.

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mischief. No man's ideas are more remote from the plan than my own are known to be; but is it possible to deliberate between anarchy and convulsion on the one side, and the chance of good to be expected from the plan on the other?"[1]

"I," said Gerry, "fear a civil war. In Massachusetts there are two parties: one devoted to democracy, the worst, I think, of all political evils; the other as violent in the opposite extreme. From the collision of these, confusion is greatly to be feared."

"I shall sign the constitution with a view to support it with all my influence," said Cotesworth Pinckney, "and I wish to pledge myself accordingly."[2] Jared Ingersoll, of Pennsylvania, considered the signing as a recommendation of what, all things considered, was the most eligible.

The form proposed by Franklin was accepted with no dissent, except that South Carolina was impatient at its want of an affirmative expression of unhesitating approval. The journals and papers of the convention were confided to the care of the president, subject to the order of the new government when it should be formed.[3] Hamilton, in a bold, plain hand, successively inscribed on the great sheet of parchment the name of each state, as the delegations one after the other came forward in geographical order and signed the constitution. When it appeared that the unanimous consent of all the eleven states present in convention was recorded in its favor, Franklin, looking toward a sun which was blazoned on the

[1] Gilpin, 1601; Elliot, 556.
[2] Gilpin, 1603, 1604; Elliot, 558.
[3] Gilpin, 1605; Elliot, 558.

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CHAP. XI. 1787. Sept. 17.

president's chair, said of it to those near him: "In the vicissitudes of hope and fear I was not able to tell whether it is rising or setting; now I know that it is the rising sun."[1]

The members were awe-struck at the result of their councils; the constitution was a nobler work than any one of them had believed it possible to devise. They all on that day dined together, and took a cordial leave of each other. Washington at an early hour of the evening retired "to meditate on the momentous work which had been executed."[2]

[1] Gilpin, 1624; Elliot, 565. [2] Diary of Washington for the day.

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BOOK IV.

THE PEOPLE OF THE STATES IN JUDGMENT ON THE CONSTITUTION.

1787–1788.

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CHAPTER I.

THE CONSTITUTION IN CONGRESS AND IN VIRGINIA.

SEPTEMBER TO NOVEMBER, 1787.

ON the twentieth of September, the letter of Washington, as president of the convention, to the president of congress, the full text of the proposed constitution, and the order of the convention, were laid before congress, and on the next day appeared in the daily papers of New York. The letter plainly said: The powers necessary to be vested in "the general government of the union" are too extensive to be delegated to "one body of men." "It is impracticable, in the federal government of these states, to secure all rights of independent sovereignty to each, and yet provide for the interest and safety of all; it is difficult to draw with precision the line between those rights which must be surrendered and those which may be reserved; on the present occasion this difficulty was increased by a difference among the several states as to their situation, extent, habits, and particular interests.

1787. Sept. 20. 21.

"We kept steadily in view the consolidation of our

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CHAP. I.

1787. Sept. 21. union, in which is involved our prosperity, felicity, safety, perhaps our national existence. And thus the constitution which we now present is the result of that mutual deference and concession, which the peculiarity of our political situation rendered indispensable."[1]

The constitution instantly met with opposition from the indefatigable Richard Henry Lee,[2] supported by Nathan Dane[3] and all the delegates from New York, of whom Melancthon Smith was the ablest. Till Madison returned, the delegates from Virginia were equally divided, Grayson opposing the government because it was too feeble, and Lee because it was too strong.[4] Already the New York faction was actively scattering the seeds of opposition, and Hamilton dauntlessly opposing them in the public papers by arguments for union.[5]

It was only out of the ashes of the confederation that the new constitution could spring into being; and the letter of the convention did indeed invite congress to light its own funeral pyre. On the

26. twenty-sixth it was first contended that congress could not properly give any positive countenance to a measure subversive of the confederation to which they owed their existence. To this it was answered, that in February congress itself had recommended the convention as "the most probable means of establishing a firm national government," and that it was not now more restrained from acceding to the new plan than the convention from proposing it. If the

[1] New York Daily Advertiser, 20 and 21 Sept., 1787; New York Packet, 21 Sept., 1787.

[2] Carrington to Madison, Sunday, 23 Sept., 1787. MS.

[3] Gilpin, 643, 650; Elliot, 566, 568.

[4] Carrington to Jefferson, 23 Oct., 1787. MS.

[5] Carrington to Madison, 23 Sept., 1787.

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plan was within the powers of the convention, it was within those of congress; if beyond those powers, the necessity which justified the one would justify the other; and the necessity existed if any faith was due to the representations of congress themselves, confirmed by twelve states in the union and by the general voice of the people.

Lee next attempted to amend the act of the convention before it should go forth from congress to the people. "Where," said he, "is the contract between the nation and the government? The constitution makes no mention but of those who govern, and never speaks of the rights of the people who are governed."[1] He wished to qualify the immense power of the government by a bill of rights, which had always been regarded as the palladium of a free people. The bill of rights was to relate to the rights of conscience, the freedom of the press, the trial by jury in civil cases as well as criminal, the prohibition of standing armies, freedom of elections, the independence of the judges, security against excessive bail, fines, or punishments, against unreasonable searches or seizure of persons, houses, papers, or property; and the right of petition. He further proposed amendments to the constitution; a council of state or privy council, to be joined with the president in the appointment of all officers, so as to prevent the blending of legislative and executive powers; no vice-president; an increase of the number of the representatives; and the requisition of more than a majority to make commercial regulations.

[1] Minister Otto to Count Montmorin, New York, 23 Oct., 1787.

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1787. Sept. 26. The restraint on the power of regulating commerce and navigation would have been fatal to the wealth and prosperity of New York. Nevertheless, the propositions of Lee were supported by Melancthon Smith, who insisted that congress had the undoubted right and the duty to amend the plan of the federal constitution, in which the essential safeguards of liberty had been omitted. To this it was replied that congress had certainly a right of its own to propose amendments, but that these must be addressed to the legislatures of the states, and would require ratification by all the thirteen; but that the act of the federal convention was to be addressed to conventions of the several states, of which any nine might adopt it for themselves. So the first day's debate ended without admitting the proposed amendments to consideration.[1]

27. The next day Lee, seconded by Smith, offered a resolution that congress had no power whatever to assist[2] in creating a "new confederacy of nine" states; and therefore he would do no more than, as a mark of respect, forward the acts of the convention to the executives of every state to be laid before their respective legislatures. On the instant Abraham Clarke, of New Jersey, seconded by Nathaniel Mitchell, of Delaware, proposed to add: "In order to be by them submitted to conventions of delegates to be chosen agreeably to the said resolutions of the convention." On the question, Georgia and the two Carolinas voted unanimously against Lee; so did

[1] Madison to Washington, New York, 30 Sept., 1787; R. H. Lee to Samuel Adams, New York, 5 Oct., 1787; Life of R. H. Lee, ii. 74, 76.

[2] Gilpin, 643; Elliot, 566.

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Delaware and the only member from Maryland, with Pennsylvania, New Jersey, Connecticut, Massachusetts, New Hampshire. Virginia, on the return of Madison, joined them by the inflexible majority of Madison, Carrington, and Henry Lee, against Grayson and Richard Henry Lee. All the states except New York were for the motion; and all except New York and Virginia were unanimously so. The majority in congress was impatient to express its approval of the acts of the convention in still stronger language; Carrington, of Virginia, therefore, seconded by Bingham, of Pennsylvania, proposed that it be recommended to the legislatures of the several states to cause conventions to be held as speedily as may be, to the end that the same may be adopted, ratified, and confirmed.[1] 1787. Sept. 27.

In this stage of the business congress adjourned. The friends of the new constitution desired to send it to the states by the unanimous vote of congress. The members from New York would not consent to any language that implied approval. To win their vote the resolution of congress must be neutral. On the other hand, the idea of unanimity required the effacement of every motion adverse to the reference of the constitution. Accordingly, congress, when it next assembled, expunged from its journal the proposed amendments of Richard Henry Lee, and the vote of the preceding day;[2] and having obliterated every record of opposition, it resolved on the twenty-eighth unanimously, eleven states being present, Maryland 28.

[1] MS. Journals of Congress in State Department.

[2] MS. Journals of Congress.

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CHAP. I. 1787. Sept. 28. having one delegate, Rhode Island being alone altogether unrepresented, that the said report, with the resolutions and letter accompanying the same, be transmitted to the several legislatures, in order to be submitted to a convention of delegates chosen in each state by the people thereof in conformity to the resolves of the convention.[1]

Oct. Baffled within the convention, Richard Henry Lee appealed to the world through the press in a series of "Letters from the Federal Farmer," of which many thousand copies were scattered through the central states. He acknowledged the necessity of reforming the government, but claimed to discern a strong tendency to aristocracy in every part of the proposed constitution, which he slighted as the work of visionary young men,[2] who wished to change the thirteen distinct independent republics under a federal head into one consolidated government.[3] He waylaid Gerry when bound for home, and assisted him in preparing an official letter to explain his refusal to sign the constitution. He addressed himself to Samuel Adams, the "dear friend with whom he had long toiled in the vineyard of liberty," submitting to his wisdom and patriotism the objections to the new constitution which he had proposed in congress in the form of amendments, but disingenuously substituting other words for his remonstrance against vesting congress with power to regulate commerce. He extended his intrigues to Pennsylvania and Delaware, hoping to delay their decisions.

[1] Journals of Congress, iv. 782.
[2] Letters from the Federal Farmer, 8.
[3] Letters from the Federal Farmer, 6.

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"I am waiting with anxiety for the echo from Virginia, but with very faint hopes of its corresponding with my wishes," wrote Madison from New York city to Washington.[1] The party in power in New York was passionately opposed to the constitution; but already day had begun to scatter the dusk of earliest morning. CHAP. I. 1787. Sept.

In the first moment after his return to Mount Vernon, Washington sent a copy of the constitution to Patrick Henry,[2] to Harrison, and to Nelson, each of whom had been governor of Virginia. In a propitiatory letter he appealed to their experience of the difficulties which had ever arisen in attempts to reconcile the interests and local prejudices of the several states. "I wish," he continued, "the constitution which is offered had been more perfect; but it is the best that could be obtained at this time, and a door is opened for amendments hereafter. The political concerns of this country are suspended by a thread. The convention has been looked up to by the reflecting part of the community with a solicitude which is hardly to be conceived; and if nothing had been agreed on by that body, anarchy would soon have ensued, the seeds being deeply sown in every soil."

A visitor at Mount Vernon, just after this letter was sent out, writes of Washington: "He is in perfect health, and looks almost as well as he did twenty years ago. I never in my life saw him so keen for anything as he is for the adoption of the new form

[1] Madison to Washington. Gilpin, 646; Elliot, 567.

[2] Washington to Henry, 24 Sept., 1787. Sparks, ix. 265.

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CHAP. I. 1787. Oct.

of government."[1] Throughout the whole country he was the centre of interest; in Virginia of power. The leaders of opposition answered him frankly, but with expressions of deference and affection.

"The seeds of civil discord," replied Harrison, "are plentifully sown in very many of the powers given both to the president and congress. If the constitution is carried into effect, the states south of the Potomac will be little more than appendages to those to the northward of it. My objections chiefly lie against the unlimited powers of taxation, the regulation of trade, and the jurisdictions that are to be established in every state altogether independent of their laws. The sword and such powers will, nay, must, sooner or later establish a tyranny."[2]

Avowing very sincerely "the highest reverence" for Washington, Patrick Henry answered vaguely but positively: "I cannot bring my mind to comply with the proposed constitution."[3]

George Mason, who had rendered the highest and wisest service in shaping the constitution, now from wounded pride resisted his inmost convictions, enumerating his objections, of which the grant to congress of power to regulate commerce by a bare majority was the capital one.[4]

Next came a letter from Richard Henry Lee, who avowed himself "compelled by irresistible conviction of mind after long reflection to doubt about the new system for federal government," and to express the

[1] A. Donald to Jefferson, 12 Nov., 1787. MS.
[2] Sparks, ix. 266, 267. Note.
[3] Sparks, ix. 266. Note.
[4] George Mason to Washington, 7 Oct., 1787. Sparks, ix. 267, 268. Note.

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wish "that such amendments as would give security to the rights of human nature and the discordant interests of the different parts of this union might employ another convention."[1] 1787. Oct.

But the influence of Washington outweighed them all. He was embosomed in the affections and enshrined in the pride of the people of Virginia; and in all their waverings during the nine months following the federal convention he was the anchor of the constitution. His neighbors of Alexandria to a man agreed with him; and Fairfax county unanimously instructed its representatives, of whom George Mason was one, "that the peace, security, and prosperity of Virginia and of the United States depended on the speedy adoption of the federal constitution."[2]

In the close division of parties in the state it was of vital importance to secure the influence of Edmund Randolph, its governor; and his old military chief in due time received from him an elaborate paper which he had prepared in the form of an address to the speaker of the house of delegates. In this letter, not yet pledging himself to the unconditional support of the constitution, he avowed that he prized the intimate and unshaken friendship of Washington and Madison as among the happiest of all his acquisitions; but added: "Dreadful as the total dissolution of the union is to my mind, I entertain no less horror at the thought of partial confederacies. The utmost limit of any partial confederacy, which Virginia could expect to form, would comprehend the three south-

[1] R. H. Lee to Washington, New York, 11 Oct., 1787. Letters to W., iv. 180, 181.

[2] Meeting of Fairfax county, Tuesday, 2 Oct., 1787. Carey's Museum, ii. 392, 393.

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CHAP. I. 1787. Oct.

ern and her nearest northern neighbor. But they, like ourselves, are diminished in their real force by the mixture of an unhappy species of population."[1]

Monroe wrote to Madison that his "strong objections" to the constitution "were overbalanced by the arguments in its favor."[2]

The legislature of Virginia was to hold its regular meeting on the third Monday of October; this year there was a quorum on the first day of the session, which had not happened since the revolution.

19. On the nineteenth, the vote of congress transmitting the constitution came before the house; Patrick Henry, refusing to make an issue where he would have met with defeat, declared that the constitution must go before a convention, as it transcended the power of the house to decide on it.[3]

25. But when, on the twenty-fifth, Francis Corbin proposed "a convention to be called according to the recommendation of congress," Henry objected that under that limitation its members "would have power to adopt or reject the new plan, but not to propose amendments" of its "errors and defects." His motion to give this power to the convention of the state was seconded by Mason, who added: "I declare that from the east of New Hampshire to the south of Georgia there is not a man more fully convinced of the necessity of establishing some general govern-

[1] Edmund Randolph to the speaker of the house of delegates of Virginia, 10 Oct., 1787. Elliot, i. 487.

[2] Monroe to Madison, 13 Oct., 1787. MS.

[3] Bushrod Washington to G. W., 19 Oct., 1787. Sparks, ix. 273.

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ment than I am; that I regard our perfect union as the rock of our political salvation."[1]

1787. Oct. 25.

After some debate, John Marshall, of Richmond, conceding the point as to "leaving the door open for amendments,"[2] pleaded that the legislature should not seem to disapprove the new federal government, and, for the form of the resolution, proposed that "the new constitution should be laid before the convention for their free and ample discussion."[3] This form was silently accepted by Henry, while Mason declared "that the house had no right to suggest anything to a body paramount to itself." The vote was unanimous, the form of the resolution being that of Marshall; while in its substance it yielded up all that Henry and Mason required.[4] From "unfriendly intentions toward the constitution,"[5] the choice of the convention was postponed till the court days in March, and its time of meeting to the first Monday in June. Should many of the states then be found against the constitution, Virginia could assume the office of mediator between contending parties, and dictate to all the rest of the union.[6]

Since amendments had been unanimously authorized, it seemed fair that any expense of an attempt to make them should be provided for with the other

[1] Report of Debate in Packet, 10 Nov., 1787.

[2] Madison, i. 363, 364.

[3] Report of the Debate from Penn. Packet, 10 Nov., 1787.

[4] Compare George Mason to G. W., 6 Nov., 1787, in Letters to G. W., iv. 190. Report of Debates in Penn. Packet, 10 Nov., 1787. Bushrod Washington in Sparks, ix. 287.

[5] Edward Carrington to T. Jefferson, 10 Nov., 1787. Bushrod Washington was inexperienced, and at first judged the disposition of the legislature too favorably; Carrington had keener-eyed correspondents.

[6] Monroe to Madison, 7 Feb., 1788. MS. Carrington to Madison, 18 Jan., 1788. MS. Washington to Carter, 14 Dec., 1787.

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CHAP. I.

charges of the convention.[1] A letter from Richard Henry Lee, a representative from Virginia in congress, to the governor of the commonwealth, recommended, as a policy open to "no objection and promising great safety and much good,"[2] that amendments adopted severally by the states should all be definitively referred to a second federal convention.

1787. Oct. 25.

Nov. 30.

To carry out this policy, resolutions were on the last day of November introduced into the house, and supported by Henry and Mason, pledging the general assembly to defray the expense of a deputy or deputies which the convention of the commonwealth in the following June might think proper to send to confer with a convention of any one or more of the sister states, "as well as the allowance to be made to the deputies to a federal convention, in case such a convention should be judged necessary." The friends of the constitution, who now perceived the direction in which they were drifting, made a rally; but they were beaten by a majority of about fifteen. A bill pursuant to the resolutions, reported by a committee composed mainly of the most determined "malcontents," soon became a law.[3] Friends of the constitution who had been jubilant at the first aspect of the legislature now doubted whether it any longer had a majority in its favor; its enemies claimed a decisive victory. Early in December, Monroe reported to Madison: "The cloud which hath hung over us for some time past is not likely soon to be dispelled."[4]

Dec. 12.

But on Washington's mind no cloud rested. "If

[1] Sparks, ix. 287.
[2] Lee's Life, ii. 81; Elliot, i. 505.
[3] Hening, xii. 462.
[4] Monroe to Madison, 6 Dec. MS.

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CHAP. I.

there are characters who prefer disunion, or separate confederacies, to the general government which is offered to them, their opposition may, for aught I know, proceed from principle; but, as nothing, according to my conception of the matter, is more to be deprecated than a disunion or three distinct confederacies, as far as my voice can go it shall be offered in favor of the general government."[1] Nor did he lose heart or trust; but as Virginia has delayed her convention till June, our narrative must turn to the state which was the first to meet in convention.

1787. Nov. 30.

[1] In Sparks, ix. 284, for "these distinct confederacies" read "*three* distinct confederacies."

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CHAPTER II.

THE CONSTITUTION IN PENNSYLVANIA, DELAWARE, AND NEW JERSEY; AND IN GEORGIA.

FROM 18 SEPTEMBER, 1787, TO 2 JANUARY, 1788.

CHAP. II. 1787. Sept.

OUR happy theme leads from one great act of universal interest to another. A new era in the life of the race begins: a people select their delegates to state conventions to pronounce their judgment on the creation of a federal republic.

One more great duty to his fellow-citizens and to mankind is to be fulfilled by Franklin; one more honor to be won by Philadelphia as the home of union; one new victory by Pennsylvania as the citadel of the love of the one indivisible country. That mighty border commonwealth, extending its line from Delaware bay to the Ohio, and holding convenient passes through the Alleghanies, would not abandon the South, nor the West, nor the North; she would not hear of triple confederacies nor of twin confederacies; but only of one government embracing all. Its people in their multifarious congruity had nothing adverse to union; the faithful of the proprietary party

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were zealous for a true general government; so too was every man in public life of the people called Quakers;[1] so was an overwhelming majority of the Germans;[2] so were the Baptists, as indeed their synod authoritatively avowed for every state. The perfect liberty of conscience prevented religious differences from interfering with zeal for a closer union. CHAP. II. 1787. Sept.

In the first period of the confederacy, the inhabitants of Philadelphia did not extend their plans for its reform beyond the increase of its powers; but after the flight of congress from their city, they began to say to one another that "it would be more easy to build a new ship of state than to repair the old one;" that there was need of a new constitution with a legislature in two branches. Merchants, bankers, holders of the national debt, the army officers, found no party organized against this opinion; Dickinson was magnanimous enough to become dissatisfied with the confederation which he had greatly assisted to frame; and he and Mifflin and McKean and George Clymer and Rush manifested no opposition to the policy of Wilson, Robert Morris, Gouverneur Morris, and Fitzsimons; although remoter counties, and especially the backwoodsmen on each side of the mountains, loved their wild personal liberty too dearly to welcome a new supreme control.

At eleven in the morning of the eighteenth, Benjamin Franklin, then president of Pennsylvania, more than fourscore years of age, fulfilling his last great public service, was ushered into the hall of the as- 18.

[1] Independent Gazetteer, 15 Jan., 1788.

[2] Independent Gazetteer.

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CHAP. II. 1787. Sept. 18. sembly, followed by his seven colleagues of the convention. After expressing in a short address their hope and belief that the measure recommended by that body would produce happy effects to the commonwealth of Pennsylvania as well as to every other of the United States, he presented the constitution and accompanying papers.

For the next ten days the house, not willing to forestall the action of congress, confined itself to its usual business; but as it had resolved to adjourn *sine die* on Saturday, the twenty-ninth, Clymer, on the
28. morning of the last day but one of the session, proposed to refer the acts of the federal convention to a convention of the state. That there might be time for reflection, Robert Whitehill, of Carlisle, on behalf of the minority, requested the postponement of the question at least until the afternoon. This was conceded; but in the afternoon the minority, nineteen in number, did not attend, and refused to obey the summons of the speaker delivered by the sergeant-at-arms, so that no quorum could be made. This factious secession so enraged the inhabitants that early the next morning a body of "respectable men" made a search for the delinquents; and finding two of them, just sufficient to form a house, dragged them into the assembly, where, in spite of their protests, they were compelled to stay. Meantime a fleet messenger, sent from New York by William Bingham, a delegate in congress from Pennsylvania, arrived with an authentic copy of a resolution of congress of the preceding day, unanimously recommending the reference of the constitution to conventions of the several states; and

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within twenty hours[1] from the adoption of the resolution, the Pennsylvania assembly called a convention of the state for the third Tuesday in November.[2] The vote was received by the spectators with three heartfelt cheers; the bells of the churches were rung; and signs of faith in the speedy return of prosperity were everywhere seen. But the minority, trained in resistance to what were thought to be aristocratic influences, refused to be reconciled, and became the seed of a permanent national party. 1787. Sept. 28.

Richard Henry Lee had disseminated in Philadelphia the objections of himself and George Mason to the constitution; and seventeen of the seceding members embodied them in an appeal to their constituents.[3] But the cause of the inflammation in Pennsylvania was much more in their state factions than in the new federal system.[4]

The efforts of Richard Henry Lee were counteracted in Philadelphia by Wilson, whom Washington at this time called "as able, candid, and honest a member as was in the convention." On the sixth of October, at a great meeting in Philadelphia, he held up the constitution as the best which the world had as yet seen. To the objection derived from its want of a bill of rights, he explained that the government of the United States was a limited government, which had no powers except those which were specially granted to it. The speech was promptly reprinted Oct. 6.

[1] Carey's Museum, vol. ii., Chronicle, pp. 6, 7.

[2] Lloyd's Debates of Pennsylvania Legislature, p. 137. P. Bond to Lord Carmarthen, Philadelphia, 29 Sept., 1787.

[3] Washington to Madison, 10 Oct., 1787, in Letter Book at State Department.

[4] Madison to Jefferson, 19 Feb., 1788, in Madison, i. 377.

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CHAP. II. 1787. Oct. 6. in New York as a reply to the insinuations of Lee; and through the agency of Washington it was republished in Richmond.[1] But the explanation of the want of a bill of rights satisfied not one state.

Great enthusiasm was awakened among the people of Pennsylvania in the progress of the election of their delegates; they rejoiced at the near consummation of their hopes. The convention was called to meet on Tuesday, the twentieth of November; a quorum appeared on the next day. Before the week was over the constitution on two successive days received its first and second reading. Its friends, who formed a very large and resolute majority, were intensely in earnest, and would not brook procrastination.

Nov. 21.

24. On Saturday, the twenty-fourth,[2] Thomas McKean, of Philadelphia, seconded by John Allison, of Franklin county, offered the resolution in favor of ratifying the constitution; and Wilson, as the only one present who had been a member of the federal convention, opened the debate.

"The United States exhibit to the world the first instance of a nation unattacked by external force, unconvulsed by domestic insurrections, assembling voluntarily, deliberating fully, and deciding calmly concerning that system of government under which they and their posterity should live. To form a good system of government for a single city or an inconsiderable state has been thought to require the strong-

[1] Sparks, ix. 271.

[2] Correct the date in Elliot, ii. 417, by Independent Gazette of 29 Nov., 1787. Especially, Centinel in the same, 4 Dec. Mr. W. [Wilson] in a speech on Sat., 24 inst., Pa. Packet of 27 Nov.

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est efforts of human genius; the views of the convention were expanded to a large portion of the globe.

1787. Nov. 24.

"The difficulty of the business was equal to its magnitude. The United States contain already thirteen governments mutually independent; their soil, climates, productions, dimensions, and numbers are different; in many instances a difference and even an opposition subsists among their interests, and is imagined to subsist in many more. Mutual concessions and sacrifices, the consequences of mutual forbearance and conciliation, were indispensably necessary to the success of the great work.

"The United States may adopt any one of four different systems. They may become consolidated into one government in which the separate existence of the states shall be entirely absolved. They may act as unconnected states. They may form two or more confederacies. Neither of these systems found advocates in the late convention. The remaining system is a union in one federal republic.[1]

"The expanding quality of a government by which several states agree to become an assemblage of societies that constitute a new society, capable of increasing by means of further association, is peculiarly fitted for the United States. But this form of government left us almost without precedent or guide. Ancient history discloses, and barely discloses, to our view some confederate republics. The Swiss cantons are connected only by alliances; the United Netherlands constitute no new society; from the Germanic body little useful knowledge can be drawn.

[1] Elliot, ii. 427, 428.

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CHAP. II. 1787. Nov. 24.

"Since states as well as citizens are represented in the constitution before us, and form the objects on which that constitution is proposed to operate, it is necessary to mention a kind of liberty which has not yet received a name. I shall distinguish it by the appellation of federal liberty. The states should resign to the national government that part, and that part only, of their political liberty which, placed in that government, will produce more good to the whole than if it had remained in the several states. While they resign this part of their political liberty, they retain the free and generous exercise of all their other faculties, so far as it is compatible with the welfare of the general and superintending confederacy.

"The powers of the federal government and those of the state governments are drawn from sources equally pure. The principle of representation, unknown to the ancients, is confined to a narrow corner of the British constitution. For the American states were reserved the glory and happiness of diffusing this vital principle throughout the constituent parts of government.

"The convention found themselves embarrassed with another difficulty of peculiar delicacy and importance; I mean that of drawing a proper line between the national government and the governments of the several states. Whatever object of government is confined in its operation and effects within the bounds of a particular state should be considered as belonging to the government of that state; whatever object of government extends in its operation or effects beyond the bounds of a particular state should

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be considered as belonging to the government of the United States. To remove discretionary construction, the enumeration of particular instances in which the application of the principle ought to take place will be found to be safe, unexceptionable, and accurate.

"To control the power and conduct of the legislature by an overruling constitution limiting and superintending the operations of legislative authority was an improvement in the science and practice of government reserved to the American states. Oft have I marked with silent pleasure and admiration the force and prevalence through the United States of the principle that the supreme power resides in the people, and that they never part with it. There can be no disorder in the community but may here receive a radical cure. Error in the legislature may be corrected by the constitution; error in the constitution, by the people. The streams of power run in different directions, but they all originally flow from one abundant fountain. In this constitution all authority is derived from the people."

Already much had been gained for the friends of the constitution. "I am sensible," said John Smilie, of Fayette county, "of the expediency of giving additional strength and energy to the federal head." The question became on the one side the adoption of the constitution as it came from the convention; on the other, with amendments. Smilie spoke against a system of precipitancy which would preclude deliberation on questions of the highest consequence to the happiness of a great portion of the globe. "Is the

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CHAP. II. 1787. Nov. 24. object," he asked, "to bring on a hasty and total adoption of the constitution? The most common business of a legislative body is submitted to repeated discussion upon different days." Robert Whitehill, of Carlisle, in Cumberland county, fearing a conveyance to the federal government of rights and liberties which the people ought never to surrender, asked a reference to a committee of the whole.

26. He was defeated on the twenty-sixth, by a vote of forty-three to twenty-four; but each member obtained leave to speak in the house as often as he pleased. When it was observed that the federal convention had exceeded the powers given to them by their respective legislatures, Wilson answered: "The federal convention did not proceed at all upon the powers given to them by the states, but upon original principles; and having framed a constitution which they thought would promote the happiness of their country, they have submitted it to their consideration, who may either adopt or reject it as they please."[1]

27. On the twenty-seventh, Whitehill, acting in concert with the Virginia opposition and preparing the way for entering on the journals a final protest against the proceedings of the majority, proposed that upon all questions where the yeas and nays were called any member might insert the reason of his vote upon the journal of the convention. This was argued all the day long, and leave was refused by a very large majority.[2]

[1] Independent Gazetteer, 29 Nov., 1787.

[2] Independent Gazetteer for 8 Dec.; and especially for 7 Dec., 1787.

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The fiercest day's debate, and the only one where the decision of the country was finally in favor of the minority, took place on the twenty-eighth of November. There was a rising discontent at the omission of a declaration of rights. To prove that there was no need of a bill of rights, Wilson said: "The boasted Magna Charta of England derives the liberties of the inhabitants of that kingdom from the gift and grant of the king, and no wonder the people were anxious to obtain bills of rights; but here the fee simple remains in the people; and by this constitution they do not part with it. The preamble to the proposed constitution, 'We the people of the United States do establish,' contains the essence of all the bills of rights that have been or can be devised." The defence was imperfect both in sentiment and in public law. To the sentiment, Smilie answered: "The words in the preamble of the proposed system, however superior they may be to the terms of the great charter of England, must yield to the expressions in the Pennsylvania bill of rights and the memorable declaration of the fourth of July, 1776." As a question of public law, the answer of Smilie was equally conclusive: "It is not enough to reserve to the people a right to alter and abolish government, but some criterion should be established by which it can easily and constitutionally ascertain how far the government may proceed and when it transgresses its jurisdiction." "A bill of rights," interposed McKean, "though it can do no harm, is an unnecessary instrument. The constitutions of but five out of the thirteen United States have bills of rights." The speaker

1787. Nov. 28.

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CHAP. II. 1787. Nov. 28.

was ill informed. South Carolina and Georgia had alone declined the opportunity of establishing a bill of rights; every state to the north of them had one except Rhode Island and Connecticut, which as yet adhered to their original charters, and New Jersey, which still adhered to its government as established just before the declaration of independence. New York had incorporated into its constitution the whole of that declaration.

Wilson asserted that in the late convention the desire of "a bill of rights had never assumed the shape of a motion." Here his memory was at fault; but no one present could correct him. "In civil governments," he proceeded, "bills of rights are useless, nor can I conceive whence the contrary notion has arisen. Virginia has no bill of rights." Smilie interrupted him to cite the assurance of George Mason himself that Virginia had a bill of rights; and he repeated the remark that Mason[1] had made in the convention: "The laws of the general government are paramount to the laws and constitutions of the several states; and as there is no declaration of rights in the new constitution, the declarations of rights in the constitutions of the several states are no security. Every stipulation for the most sacred and invaluable privileges of man is left at the mercy of government."[2]

Dec. 1.

On Saturday, the first of December, William Findley, the third leading member of the opposition, in a long and elaborate argument endeavored to prove that the proposed plan of government was not a con-

[1] Gilpin, 1566; Elliot, 538.

[2] Independent Gazetteer, Dec. 10, 13, 18, 20, 24, 27. Review of the Constitutions by De La Croix, English translation, ii. 886, note. Elliot's Debates, ii. 434–439.

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federation of states, but a consolidation of government. He insisted that the constitution formed a contract between individuals entering into society, not a union of independent states; that in the legislature it established the vote by individuals, not by states; that between two parties in the same community, each claiming independent sovereignty, it granted an unlimited right of internal taxation to the federal body, whose stronger will would thus be able to annihilate the power of its weaker rival; that it conceded a right to regulate and judge of elections; that it extended the judicial power as widely as the legislative; that it raised the members of congress above their states, for they were paid not by the states as subordinate delegates, but by the general government; and finally, that it required an oath of allegiance to the federal government, and thus made the allegiance to a separate sovereign state an absurdity.[1]

CHAP. II. 1787. Dec. 1.

Meantime the zeal of the majority was quickened by news from "the Delaware state," whose people were for the most part of the same stock as the settlers of Pennsylvania, and had grown up under the same proprietary. On the proposal for the federal convention at Philadelphia, its general assembly declared that "they had long been fully convinced of the necessity of revising the federal constitution," "being willing and desirous of co-operating with the commonwealth of Virginia and the other states in the confederation."[2] Now that an equality of vote in

[1] Independent Gazetteer, 6 Dec., 1787.

[2] Laws of Delaware, page 892, in edition of 1797.

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CHAP. II.

the senate had been conceded, the one single element of opposition disappeared. The legislature of Delaware met on the twenty-fourth of October, and following "the sense and desire of great numbers of the people of the state, signified in petitions to their general assembly," "adopted speedy measures to call together a convention."[1]

1787. Oct. 24.

Dec. 6.

The constituent body, which met at Dover in the first week of December, encountered no difficulty but how to find language strong enough to express their joy in what had been done. On the sixth "the deputies of the people of the Delaware state, fully, freely, and entirely approved of, assented to, ratified, and confirmed the federal constitution," to which they all on the next day subscribed their names.[2]

7.

When it became known that Delaware was leading the way at the head of the grand procession of the thirteen states, McKean, on Monday, the tenth of December, announced to the Pennsylvania convention that he should on the twelfth press the vote for ratification.

10.

11.

On the next day Wilson summed up his defence of the constitution, and repeated: "This system is not a compact; I cannot discern the least trace of a compact; the introduction to the work is not an unmeaning flourish; the system itself tells you what it is, an ordinance, an establishment of the people."[3] The opposition followed the line of conduct marked out by the opposition in Virginia. On the twelfth, before the question for ratification was taken, White-

12.

[1] Packet, 17 Nov., 1787.
[2] Journals of Congress, iv. Appendix, 46.
[3] Elliot, ii. 497, 499.

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hill presented petitions from seven hundred and fifty inhabitants of Cumberland county against adopting the constitution without amendments, and particularly without a bill of rights to secure liberty in matters of religion, trial by jury, the freedom of the press, the sole power in the individual states to organize the militia; the repeal of the executive power of the senate, and consequent appointment of a constitutional council; a prohibition of repealing or modifying laws of the United States by treaties; restrictions on the federal judiciary power; a confirmation to the several states of their sovereignty, with every power, jurisdiction, and right not expressly delegated to the United States in congress assembled. To secure this end, he showed a concert with the measure which Mason and Randolph had proposed in the federal convention and Richard Henry Lee in congress, and which led the Virginia legislature on that very day to pass the act for communicating with sister states.[1] 1787. Dec. 12.

The amendments which Whitehill proposed were not suffered to be entered in the journal. His motion was rejected by forty-six to twenty-three; and then the new constitution was ratified by the same majority.

On Thursday the convention marched in procession to the court-house, where it proclaimed the ratification. Returning to the place of meeting, the forty-six subscribed their names to their act. The opposition were invited to add their names as a fair and honorable acquiescence in the principle that the majority should govern. John Harris refused; yet 13.

[1] Hening, xii. 468.

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CHAP. II. held himself bound by the decision of the majority. Smilie answered: "My hand shall never give the lie to my heart and tongue." Twenty-one of the minority signed an exceedingly long address to their constituents, complaining that the extent of the country did not admit of the proposed form of government without danger to liberty; and that the powers vested in congress would lead to an iron-handed despotism, with unlimited control of the purse and the sword.

1787. Dec. 13.

The ratification gave unbounded satisfaction to all Pennsylvania on the eastern side of the Susquehanna; beyond that river loud murmurs were mingled with threats of resistance in arms. On the fifteenth the convention dissolved itself, after offering a permanent and a temporary seat of government to the United States.

15.

The population of New Jersey at that time was almost exclusively rural; in the west chiefly the descendants of Quakers, in the east of Dutch and Scottish Calvinists. This industrious, frugal, and pious people, little agitated by political disputes, received the federal constitution with joy, and the consciousness that the deeds of its own sons had contributed essentially to the result.[1]

Oct 26. On the twenty-sixth of October its legislature called a state convention by a unanimous vote. On the eleventh of December the convention of New Jersey, composed of accomplished civilians, able judges, experienced generals, and fair-minded, intelligent husbandmen, assembled in Trenton. The next day was spent

Dec. 11.

12.

[1] Penn. Journal, 7 Nov., 1787.

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in organizing the house, all the elected members being present save one. John Stevens was chosen president by ballot; Samuel Whitham Stockton, secretary. The morning began with prayer. Then with open doors the convention proceeded to read the federal constitution by sections, giving opportunity for debates and for votes if called for; and after a week's deliberation, on Tuesday, the eighteenth, determined unanimously to ratify and confirm the federal constitution. A committee, on which appear the names of Brearley, a member of the federal convention, Witherspoon, Neilson, Beatty, former members of congress, was appointed to draw up the form of the ratification; and the people of the state of New Jersey, "by the unanimous consent of the members present, agreed to, ratified, and confirmed the proposed constitution and every part thereof."[1]

CHAP. II. 1787. Dec. 12. 18.

On the next day, the resolve for ratification having been engrossed in duplicate on parchment, one copy for the congress of the United States and one for the archives of the state, every member of the convention present subscribed his name. 19.

In the shortest possible time, Delaware, Pennsylvania, and New Jersey, the three central states, one by a majority of two thirds, the others unanimously, accepted the constitution.

The union of the central states was of the best omen. Before knowing their decision, Georgia at the extreme south had independently taken its part; its legislature chanced to be in session when the message from congress arrived. All its relations to the United

[1] Penn. Journal and Penn. Packet, 22 and 29 Dec.

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CHAP. II.

States were favorable; it was in possession of a territory abounding in resources and large enough to constitute an empire; its people felt the need of protection against Spain, which ruled along their southern frontier from the Mississippi to the Atlantic, and against the savages who dwelt in their forests and hung on the borders of their settlements. A convention which was promptly called met on Christmas-day, with power to adopt or reject any part or the whole of the proposed constitution. Assembled at Augusta, its members, finding themselves all of one mind, on the second day of the new year, unanimously, for themselves and for the people of Georgia, fully and entirely assented to, ratified, and adopted the proposed constitution. They hoped that their ready compliance would "tend to consolidate the union" and "promote the happiness of the common country." The completing of the ratification by the signing of the last name was announced by a salute of thirteen guns in token of faith that every state would accede to the new bonds of union.[1]

1787. Dec. 19.

25.

1788. Jan. 2.

[1] Stevens, History of Georgia, ii. 387.

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CHAPTER III.

THE CONSTITUTION IN CONNECTICUT AND MASSACHUSETTS.

1787. Sept. 26.

On the twenty-sixth of September Roger Sherman and Oliver Ellsworth, two of the delegates from Connecticut to the federal convention, transmitted to Samuel Huntington, then governor of the state, a printed copy of the constitution to be laid before the legislature. In an accompanying letter they observed that the proportion of suffrage accorded to the state remained the same as before; and they gave the assurance that the "additional powers vested in congress extended only to matters respecting the common interests of the union, and were specially defined; so that the particular states retained their sovereignty in all other matters."[1] The restraint on the legislatures of the several states respecting bills of credit, or making anything but money a tender in payment of debts, or impairing the obligation of contracts by *ex post facto* laws, was a security to the commercial interests of foreigners as well as of the citizens of different states.[2]

[1] Compare the remark of Wilson, *supra*, 244, 245.

[2] For the letter, see Carey's Museum, ii. 434, and Elliot, i. 491, 492.

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CHAP. III.

The governor was a zealous friend of the new constitution. The legislature, on the sixteenth of

1787. Oct. 16. October, unanimously[1] called a convention of the state. To this were chosen the retired and the present highest officers of its government; the judges of its courts; "ministers of the Gospel;" and nearly sixty who had fought for independence. Connecticut had a special interest in ratifying the constitution; the compromise requiring for acts of legislation a majority of the states and a majority of the representatives of the people had prevailed through its own delegates.

1788. Jan. In January, 1788, the convention, having been organized in the state house in Hartford, moved immediately to the North Meeting House, where, in the presence of a multitude, the constitution was read and debated section by section, under an agreement that no vote should be taken till the whole of it should have been considered.[2]

4. On the fourth, Oliver Ellsworth explained the necessity of a federal government for the national defence, for the management of foreign relations, for preserving peace between the states, for giving energy to the public administration. He pointed out that a state like Connecticut was specially benefited by the restraint on separate states from collecting duties on foreign importations made through their more convenient harbors.

Johnson added: While under the confederation states in their political capacity could be coerced by nothing but a military force, the constitution intro-

[1] Madison, i. 359. [2] Penn. Packet for 18 Jan., 1788.

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duces the mild and equal energy of magistrates for the execution of the laws. "By a signal intervention of divine providence, a convention from states differing in circumstances, interests, and manners, have harmoniously adopted one grand system; if we reject it, our national existence must come to an end."[1] 1788. Jan. 4.

The grave and weighty men who listened to him approved his words; but when the paragraph which gave to the general government the largest powers of taxation was debated, James Wadsworth, who had served as a general officer in the war, objected to duties on imports as partial to the southern states. "Connecticut," answered Ellsworth, "is a manufacturing state; it already manufactures its implements of husbandry and half its clothes." Wadsworth further objected, that authority which unites the power of the sword to that of the purse is despotic. Ellsworth replied: "The general legislature ought to have a revenue; and it ought to have power to defend the state against foreign enemies; there can be no government without the power of the purse and the sword." "So well guarded is this constitution," observed Oliver Wolcott, then lieutenant-governor, "it seems impossible that the rights either of the states or of the people should be destroyed." When on the ninth the vote was taken, one hundred and twenty-eight appeared for the constitution; forty only against it.[2] 7. 9.

The people received with delight the announcement of this great majority of more than three to one; at the next election the "wrong-headed" James

[1] Penn. Packet, 24 Jan., 1788.

[2] Penn. Packet, 24 Jan., 1788.

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CHAP. III. 1787. Oct. 17.

Wadsworth was left out of the government; and opposition grew more and more faint till it wholly died away.

The country from the St. Croix to the St. Mary's now fixed its attention on Massachusetts, whose adverse decision would inevitably involve the defeat of the constitution. The representatives of that great state, who came together on the seventeenth of October, had been chosen under the influence of the recent insurrection; and the constitution, had it been submitted to their judgment, would have been rejected.[1] In communicating it to the general court, the governor most wisely avoided provoking a discussion on its merits, and simply recommended its reference to a convention from regard to the worth of its authors and their unanimity on questions affecting the prosperity of the nation and the complicated rights of each separate state.[2]

Following his recommendation with exactness, the senate, of which Samuel Adams was president, promptly adopted a resolve to refer the new constitution to a convention of the commonwealth. On motion of Theophilus Parsons, of Newburyport, a lawyer des-

[1] B. Lincoln to Washington, Boston, 19 March, 1788. MS.

[2] There is no ground whatever for an insinuation that Hancock was at any time opposed to an approval of the constitution. His conduct on that subject was from beginning to end consistent; and so wise that the afterthought of the most skilful caviller can not point out where it could be improved. Nathaniel Gorham, who had known Hancock long and well, in a letter to Madison of 27 Jan., 1788, the darkest hour, places Hancock and Bowdoin foremost in the list of the managers of the cause of the constitution, naming them with equal confidence. Hancock, who was not wanting in sagacity, may have seen, and others may have let him know that they too saw, how much the support of the constitution would strengthen his position in public life; but at that time he had nothing to fear from the rivalry of Bowdoin, who had definitively retired.

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tined to attain in his state the highest professional honors, the resolve of the senate was opened in the house. Spectators crowded the galleries and the floor. Signs of a warm opposition appeared; the right to supersede the old confederation was denied alike to the convention and to the people; the adoption of a new constitution by but nine of the thirteen states would be the breach of a still valid compact. An inalienable power, it was said in reply, resides in the people to amend their form of government. An array of parties was avoided; and with little opposition a convention was ordered.

1787. Oct. 17.

The choice took place at a moment when the country people of Massachusetts were bowed down by cumulative debts, and quivering in the agonies of a suppressed insurrection; the late disturbers of the peace were scarcely certain of amnesty; and they knew that the general government, if established, must array itself against violence. The election resulted in the choice of at least eighteen of the late insurgents. The rural population were disinclined to a change. The people in the district of Maine, which in territory far exceeded Massachusetts, had never willingly accepted annexation; the desire for a government of their own outweighed their willingness to enter into the union as a member of Massachusetts; and one half of their delegates were ready to oppose the constitution. On the other hand, the commercial towns even of Maine, all manufacturers, men of wealth, the lawyers, including the judges of all the courts, and nearly all the officers of the late army, were in favor of the new form of general gov-

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CHAP. III. 1787. Oct. 17.

ernment. The voters of Cambridge rejected Elbridge Gerry in favor of Francis Dana; in Beverly, Nathan Dane was put aside[1] for George Cabot; but the members from Maine were exactly balanced; of those from Massachusetts proper a majority of perhaps ten or twelve was opposed to the ratification of the constitution. Among the elected were King, Gorham, and Strong, who had been of the federal convention; the late and present governors, Bowdoin and Hancock; Heath and Lincoln of the army; of rising statesmen, John Brooks and Christopher Gore; Theophilus Parsons, Theodore Sedgwick, John Davis, and Fisher Ames; and about twenty ministers of various religious denominations. So able a body had never met in Massachusetts. Full of faith that the adoption of the constitution was the greatest question of the age, the federalists were all thoroughly in earnest, and influenced by no inferior motives; so that there could be among them neither cabals in council, nor uncertainty in action. They obeyed an immovable determination to overcome the seemingly adverse majority. As a consequence, they had discipline and concerted action.

It was consistent with the whole public life of Samuel Adams, the helmsman of the revolution at its origin, the truest representative of the home rule of Massachusetts in its town meetings and general court, that he was startled when, on entering the new "building, he met with a national government instead of a federal union of sovereign states;" but, in direct antagonism to George Mason and Richard Henry Lee,

[1] Ind. Gazetteer, 8, 9 Jan., 1788.

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he had always approved granting to the general government the power of regulating commerce.[1] Before he had declared his intentions, perhaps before they had fully ripened, his constituents of the industrial classes of Boston, which had ever been his main support, came together, and from a crowded hall a cry went forth that on the rejection of the constitution "navigation" would languish and "skilful mechanics be compelled to emigrate," so that "any vote of a delegate from Boston against adopting it would be contrary to the interests, feelings, and wishes of the tradesmen of the town." CHAP. III. 1788. Jan.

The morning betokened foul weather, but the heavy clouds would not join together. The enterprising and prosperous men of Maine, though they desired separation from Massachusetts, had no sympathy with the late insurrection; and the country people, though they could only by slow degrees accustom their minds to untried restraints on their rustic liberty, never wavered in their attachment to the union. The convention was organized with the governor of the commonwealth as its president.[2] The federalists of Philadelphia had handled their opponents roughly; the federalists of Massachusetts resolved never in debate to fail in gentleness and courtesy. A motion to request Elbridge Gerry to take a seat in the convention, that he might answer 14.

[1] The activity and wise and efficient support of the constitution by Samuel Adams I received from my friend John Davis, who was a member of the convention, and who was singularly skilful in weighing evidence. His statement is thoroughly supported by the record.

[2] Debates and Proceedings in the Convention, etc., published by the legislature of Massachusetts, edited by B. K. Peirce and C. Hale. The best collection on the subject.

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CHAP. III.

questions of fact, met no objection; and he was left to grow sick of sitting in a house to which he had failed of an election, and in whose debates he could not join. On motion of Caleb Strong, no vote was to be taken till the debate, which assumed the form of a free conversation, should have gone over the several paragraphs of the constitution.[1]

1788. Jan. 14.

Massachusetts had instructed its delegates in the federal convention to insist on the annual election of representatives; Samuel Adams asked why they were to be chosen for two years. Strong explained that it was a necessary compromise among so many states; and Adams answered: "I am satisfied."[2] This remark the federal leaders entreated him to repeat; he did so, when all gave attention, and the objection was definitively put to rest.

15.

Referring to the power of congress to take part in regulating the elections of senators and representatives, Phineas Bishop, of Rehoboth, proclaimed "the liberties of the yeomanry at an end." It is but "a guarantee of free elections," said Cabot. "And a security of the rights of the people," added Theophilus Parsons. "Our rulers," observed Widgery, of Maine, "ought to have no power which they can abuse."[3] "All the godly men we read of," added Abraham White, of Bristol, "have failed; I would not trust a flock, though every one of them should be a Moses."

16.

On the seventeenth an official letter from Connecticut announced the very great majority by which it had adopted the constitution; but its enemies in

17.

[1] Elliot, ii. 8.
[2] From John Davis.
[3] Elliot, ii. 28.

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Massachusetts were unmoved. Samuel Thompson, of Maine, condemned it for not requiring of a representative some property qualification, saying: "Men who have nothing to lose have nothing to fear." "Do you wish to exclude from the federal government a good man because he is not rich?" asked Theodore Sedgwick. "The men who have most injured the country," said King, "have commonly been rich men." 1788. Jan. 17.

The compromise respecting the taxation and representation of slaves was cried against. Thomas Dawes, of Boston, answered: "Congress in the year 1808 may wholly prohibit the importation of them, leaving every particular state in the mean time its own option totally to prohibit their introduction into its own territories. Slavery could not be abolished by an act of congress in a moment; but it has received a mortal wound." [1] 18.

On the nineteenth, a farmer of Worcester county complained: "There is no provision that men in power should have any religion; a Papist or an infidel is as eligible as Christians." John Brooks and Parsons spoke on the other side; and Daniel Shute, the minister of Hingham, said: "No conceivable advantage to the whole will result from a test." William Jones, of Maine, rejoined: "It would be happy for the United States if our public men were to be of those who have a good standing in the church." Philip Payson, the minister of Chelsea, retorted: "Human tribunals for the consciences of men are impious encroachments upon the prerogatives of God. A religious test, as a qualification for office, would have been a great blemish." 19.

[1] Elliot, ii. 41, 149.

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CHAP. III.

1788. Jan. 19. William Jones, of Maine, objected to the long period of office for the senators. "One third of the senators," observed Fisher Ames, "are to be introduced every second year; the constitution, in practice as in theory, will be that of a federal republic." "We cannot," continued Jones, "recall the senators." "Their duration," answered King, "is not too long for a right discharge of their duty."

21. On the twenty-first, King explained the nature of the transition[1] from a league of states with only authority to make requisitions on each state, to a republic instituted by the people with the right to apply laws directly to the individual members of the states. He showed that without the power over the purse and the sword no government can give security to the people; analyzed and defended the grant of revenue alike from indirect and direct taxes, and insisted that the proposed constitution is the only efficient federal government that can be substituted for the old confederation.

Thomas Dawes, of Boston, defended the power of laying imposts and excises in this wise: "For want of general laws of prohibition through the union, our coasting trade, our whole commerce, is going to ruin. A vessel from Halifax with its fish and whalebone finds as hearty a welcome at the southern ports as though built and navigated and freighted from Salem or Boston. South of Delaware three fourths of the exports and three fourths of the returns are made in British bottoms. Of timber, one half of the value—of other produce shipped for Lon-

[1] Elliot, ii. 54–57.

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don from a southern state, three tenths—go to the British carrier in the names of freight and charges. This is money which belongs to the New England states, because we can furnish the ships much better than the British. Our sister states are willing that these benefits should be secured to us by national laws; but we are slaves to Europe. We have no uniformity in duties, imposts, excises, or prohibitions. Congress has no authority to withhold advantages from foreigners in order to obtain reciprocal advantages from them. Our manufacturers have received no encouragement by national duties on foreign manufactures, and they never can by any authority in the confederation. The very face of our country, our numerous falls of water and places for mills, lead to manufactures: have they been encouraged? Has congress been able by national laws to prevent the importation of such foreign commodities as are made from such raw materials as we ourselves raise? The citizens of the United States within the last three years have contracted debts with the subjects of Great Britain to the amount of near six millions of dollars. If we wish to encourage our own manufactures, to preserve our own commerce, to raise the value of our own lands, we must give congress the power in question."[1]

Every day that passed showed the doubtfulness of the convention. "The decision of Massachusetts either way," wrote Madison from congress, "will involve the result in New York," and a negative would rouse the minority in Pennsylvania to a stubborn resistance. Langdon, of New Hampshire, and men

[1] Elliot, ii. 57–60.

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CHAP. III.

1788. Jan. 21. from Newport and Providence who came to watch the course of the debates, reported that New Hampshire and Rhode Island would accept the constitution should it be adopted by Massachusetts. Gerry, under the influence of Richard Henry Lee, had written a letter to the two houses of Massachusetts, insinuating that the constitution needed amendments, and should not be adopted till they were made. These same views it was attempted to diffuse throughout Virginia and Maryland; but Washington threw himself into the discussion. "If another federal convention is attempted," so he wrote to Charles Carter, of Fredericksburg, "its members will be more discordant; will agree upon no general plan. The constitution is the best that can be obtained at this time; it is free from many of the imperfections with which it is charged. The constitution or disunion is before us to choose from. If the constitution is our election, a constitutional door is open for amendments, and may be adopted in a peaceable manner without tu-

23. mult or disorder."[1] This advice reached Boston in season to be published in the Boston Centinel of the twenty-third of January. In the convention the majority still seemed adverse to the constitution. To win votes from the ranks of its foes, its friends resolved to combine with its ratification a recommendation of amendments. For this end Bowdoin and Hancock, Theophilus Parsons and Gorham, Samuel Adams, Heath, and a very few other resolute and trusty men, matured in secret council a plan of action.[2]

[1] Washington to Charles Carter, 14 Dec., 1787, in Penn. Packet of 11 Jan., 1788.

[2] King to Madison, quoted in Madison's Writings, i. 373.

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CHAP. III.

Meantime Samuel Thompson could see no safety but in a bill of rights. Bowdoin spoke at large for the new government with its ability to pay the public debts and to regulate commerce. "Power inadequate to its object is worse than none; checks are provided to prevent abuse. The whole constitution is a declaration of rights. It will complete the temple of American liberty, and consecrate it to justice. May this convention erect Massachusetts as one of its pillars on the foundation of perfect union, never to be dissolved but by the dissolution of nature."[1] 1788. Jan. 23.

Parsons recapitulated and answered the objections brought against the constitution, and closed his remarks by saying: "An increase of the powers of the federal constitution by usurpation will be upon thirteen completely organized legislatures having means as well as inclination to oppose it successfully. The people themselves have power to resist it without an appeal to arms. An act of usurpation is not law, and therefore is not obligatory; and any man may be justified in his resistance. Let him be considered as a criminal by the general government: his own fellow-citizens are his jury; and if they pronounce him innocent, not all the powers of congress can hurt him."[2]

On the morning of the twenty-fourth, Nason, of Maine, an implacable enemy of the constitution, proposed to cease its discussion by paragraphs so as to open the whole question. This attempt "to hurry the matter" was resisted by Samuel Adams in a speech so effective that the motion was negatived without a division. 24.

On the next day, Amos Singletary, of Sutton, a 25.

[1] Elliot, ii. 81, 82, 84, 85, 87, 88. [2] Elliot, ii. 94.

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CHAP. III.

husbandman venerable from age and from patriotic service from the very beginning of the troubles with England, resisted the constitution as an attempt to tax and bind the people in all cases whatsoever.

1788. Jan. 25.

Jonathan Smith, of Lanesborough, speaking to men who like himself followed the plough for their livelihood, began a reply by arguments drawn from the late insurrection, when he was called to order. Samuel Adams instantly said with authority: "The gentleman is in order; let him go on in his own way." The "plain man" then proceeded in homely words to show that farmers in the western counties, in their great distress during the insurrection, would have been glad to snatch at anything like a government for protection. "This constitution," he said, "is just such a cure for these disorders as we wanted. Anarchy leads to tyranny."

Attention was arrested by the clause on the slave-trade. "My profession," said James Neal, of Maine, "obliges me to bear witness against anything that favors making merchandise of the bodies of men, and unless this objection is removed I cannot put my hand to the constitution." "Shall it be said," cried Samuel Thompson, "that after we have established our own independence and freedom we make slaves of others? How has Washington immortalized himself! but he holds those in slavery who have as good a right to be free as himself." Dana and Samuel Adams rejoiced that a door was to be opened for the total annihilation of the slave-trade after twenty years; but hatred of slavery influenced the final vote.[1]

26.

[1] Elliot, ii. 107, 120.

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On the morning of the thirty-first of January, Hancock, who till then had been kept from his place by painful illness, took the chair, and the concerted movement began. Conversation came to an end; and Parsons proposed "that the convention do assent to and ratify the constitution."[1] Heath suggested that in ratifying it they should instruct their members of congress to endeavor to provide proper checks and guards in some of its paragraphs, and that the convention should correspond with their sister states, to request their concurrence."[2] 1788. Jan. 31.

Hancock then spoke earnestly for the necessity of adopting the proposed form of government; and brought forward nine general amendments. Taken from the letters of Richard Henry Lee, the remonstrance of the minority in Pennsylvania, and the objections made in the Massachusetts debates, "they were the production of the federalists after mature deliberation," and were clad in terse and fittest words, which revealed the workmanship of Parsons. "All powers not expressly delegated to congress," so ran the most important of them, "are reserved to the several states."

"I feel myself happy," thus Samuel Adams addressed the chair, "in contemplating the idea that many benefits will result from your Excellency's conciliatory proposition to this commonwealth and to the whole United States. The objections made to this constitution as far as Virginia are similar. I have had my doubts; other gentlemen have had theirs; the proposition submitted will tend to re-

[1] Elliot, ii. 120. [2] Elliot, ii. 122.

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CHAP. III.

1788. Jan. 31. move such doubts, and conciliate the minds of the convention and of the people out-of-doors. The measure of Massachusetts will from her importance have the most salutary effect in other states where conventions have not yet met, and throughout the union. The people should be united in a federal government to withstand the common enemy and to preserve their rights and liberties; I should fear the consequences of large minorities in the several states.

"The article which empowers congress to regulate commerce and to form treaties I esteem particularly valuable. For want of this power in our national head our friends are grieved; our enemies insult us; our minister at the court of London is a cipher. A power to remedy this evil should be given to congress, and applied as soon as possible.[1] I move that the paper read by your Excellency be now taken into consideration."

Feb. 1. On the next day Samuel Adams invited members to propose still further amendments; but Nason, of Maine, and the foremost in opposition, stubbornly refused to take part in supporting a constitution which, they said, "destroyed the sovereignty of Massachusetts."[2]

The measure was referred to a committee formed on the principle of selecting from each county one of its friends and one of its opponents; but as both of

[1] Elliot, ii. 124. Let no one be misled by the words "conditional amendments" in the report of Mr. Adams's speech. He spoke not of amendments offered as the condition of the acceptance of the constitution by Massachusetts, but that Massachusetts should connect with its ratification a recommendation of amendments; the ratification to be valid whatever fate might await the amendments. This is exactly the proposition concerted between Parsons, Hancock, and himself. Rufus King to Knox, in Drake's Knox, 99.

[2] Elliot, ii. 133, 134.

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the two delegates from Dukes county were federalists and only one of them took a place in the committee, thirteen of its twenty-five members were federalists from the beginning. During the discussions three converts were gained; a fourth member absented himself; and a fifth declined to vote; so that in the afternoon of Monday, the fourth of February, Bowdoin as chairman of the committee could report its approval of the constitution with the recommendation of amendments by a vote of fifteen to seven. CHAP. III. 1788. Feb. 1. 4.

At this result opposition flared anew. Thomas Lusk, of West Stockbridge, revived complaints of the slave-trade, and of opening the door to popery and the inquisition by dispensing with a religious test.[1] But Isaac Backus, the Baptist minister of Middleborough, one of the most exact of New England historians, replied: "In reason and the holy scriptures religion is ever a matter between God and individuals; the imposing of religious tests hath been the greatest engine of tyranny in the world." Rebuking the importation of slaves with earnestness, he trusted in the passing away of slavery itself, saying: "Slavery grows more and more odious to the world."[2] "This constitution," said Fisher Ames, on the next day, "is comparatively perfect; no subsisting government, no government which I have ever heard of, will bear a comparison with it. The state government is a beautiful structure, situated, however, upon the naked beach; the union is the dike to fence out the flood."[3] 5.

[1] Elliot, ii. 148.
[2] Elliot, ii. 148–151.
[3] Elliot, ii. 154–159.

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CHAP. III.

1788. Feb. 5. John Taylor, of Worcester county, objected that the amendments might never become a part of the system, and that there was no bill of rights.[1] "No power," answered Parsons, "is given to congress to infringe on any one of the natural rights of the people; should they attempt it without constitutional authority, the act would be a nullity and could not be enforced."[2] Gilbert Dench, of Middlesex, coinciding with the wishes of the opposition in Virginia, and with a motion of Whitehill in the convention of Pennsylvania, proposed an adjournment of the convention to some future day. A long and warm contest ensued; but Samuel Adams skilfully resisted the motion, and of the three hundred and twenty-nine members who were present, it obtained but one hundred and fifteen votes.[3]

6. On the next day the office of closing the debate was by common consent assigned to Samuel Stillman, a Baptist minister of Boston. Recapitulating and weighing the arguments of each side, he said, in the words of the governor of Virginia: "Cling to the union as the rock of our salvation, and finish the salutary work which hath been begun." He closed with the praise of education, solid learning, piety, and morality, as the life and soul of republican government and liberty.[4] Before putting the question, Hancock spoke words that were remembered: "I give my assent to the constitution in full confidence that the amendments proposed will soon become a part of the system. The people of this common-

[1] Elliot, ii. 161.
[2] Elliot, ii. 161, 162.
[3] Elliot, ii. 162.
[4] Elliot, ii. 162–170.

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wealth will quietly acquiesce in the voice of the majority, and, where they see a want of perfection in the proposed form of government, endeavor, in a constitutional way, to have it amended."[1] CHAP. III. 1788. Feb. 6.

The question being taken, the counties of Dukes, Essex, Suffolk, and Plymouth, and in Maine of Cumberland and Lincoln, all counties that touched the sea, gave majorities in favor of the constitution; Middlesex and Bristol, the whole of Massachusetts to the west of them, and the county of York in Maine, gave majorities against it. The majority of Maine for the constitution was in proportion greater than in Massachusetts.

The motion for ratifying the constitution was declared to be in the affirmative by one hundred and eighty-seven votes against one hundred and sixty-eight.[2] The bells and artillery announced the glad news to every part of the town.

With the declaration of the vote, every symptom of persistent opposition vanished. No person even wished for a protest. The convention, after dissolving itself, partook of a modest collation in the senate chamber, where, merging party ideas in mutual congratulations, they all "smoked the calumet of love and union." "The Boston people," wrote Knox to Livingston, "have lost their senses with joy."[3] The Long Lane by the meeting-house, in which the convention held its sessions, took from that time the name of Federal street. The prevailing joy diffused itself through the commonwealth. In New York, at

[1] Elliot, ii. 174–176.
[2] Elliot, ii. 181.
[3] Knox to Livingston, 18 Feb., 1788.

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CHAP. III. 1788. noon, men hoisted the pine-tree flag with an appropriate inscription. Six states had ratified, and six salutes, each of thirteen guns, were fired.

The example of Massachusetts proved worthy of imitation. "A conditional ratification or a second convention," so wrote Madison to Randolph in April, "appears to me utterly irreconcilable with the dictates of prudence and safety. Recommendatory alterations are the only ground for a coalition among the real federalists."[1]

April 10.

Jefferson, while in congress as the successor of Madison, had led the way zealously toward rendering the American constitution more perfect.[2] "The federal convention," so he wrote to one correspondent on hearing who were its members, "is really an assembly of demigods;"[3] and to another: "It consists of the ablest men in America." He hoped from it a broader reformation, and saw with satisfaction "a general disposition through the states to adopt what it should propose."[4] To Washington he soberly expressed the opinions from which during his long life he never departed: "To make our states one as to all foreign concerns, preserve them several as to all merely domestic, to give to the federal head some peaceable mode of enforcing its just authority, to organize that head into legislative, executive, and judiciary departments, are great desiderata."[5]

1787. Aug. 30.

Sept. 10.

Aug. 14.

Nov. Early in November Jefferson received a copy of the new constitution, and approved the great mass of

[1] Madison's Works, i. 386, and compare 376–379.
[2] Jefferson, i. 349.
[3] Jefferson, ii. 260.
[4] Jefferson, ii. 149, 264.
[5] Jefferson, ii. 250, 251.

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its provisions.[1] But once he called it a kite set up to keep the hen-yard in order;[2] and with three or four new articles he would have preserved the venerable fabric of the old confederation as a sacred relic. CHAP. III. 1787. Nov. 13.

To Madison[3] he explained himself in a long and deliberate letter. A house of representatives elected directly by the people he thought would be far inferior to one chosen by the state legislatures; but he accepted that mode of election from respect to the fundamental principle that the people are not to be taxed but by representatives chosen immediately by themselves. He was captivated by the compromise between the great and smaller states, and the method of voting in both branches of the legislature by persons instead of voting by states; but he utterly condemned the omission of a bill of rights, and the abandonment of the principle of rotation in the choice of the president. Nor was he "a friend to a very energetic government;" for he held that it would be "always oppressive." He presumed that Virginia would reject the new constitution;[4] for himself he said: "It is my principle that the will of the majority should prevail; if they approve, I shall cheerfully concur in the proposed constitution, in hopes they will amend it whenever they shall find that it works wrong."[5] Two months later he wrote to Madison[6] and at least one more of his correspondents: "I wish with all my soul that the nine first conventions may accept the new constitution, to secure to Dec. 11. 20. 1788. Feb. 6. 7.

[1] Jefferson, i. 79, and ii. 586.
[2] Jefferson, ii. 319.
[3] Jefferson, ii. 328–331.
[4] Jefferson, ii. 325.
[5] Jefferson, ii. 332.
[6] Jefferson to Madison, 6 Feb., 1788. MS.

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us the good it contains; but I equally wish that the four latest, whichever they may be, may refuse to accede to it till a declaration of rights be annexed; but no objection to the new form must produce a schism in our union." This was the last word from him which reached America in time to have any influence. But so soon as he heard of the method adopted by Massachusetts he declared that it was far preferable to his own, and wished it to be followed by every state, especially by Virginia.[1] To Madison he said: "The constitution is a good canvas on which some strokes only want retouching."[2] To a friend in Philadelphia he wrote with perfect truth: "I am not of the party of federalists; but I am much further from that of the anti-federalists."[3]

1788. Feb. 7.

May 27.

July 31.

1789.

The constitution was to Adams more of a surprise than to Jefferson; but at once he formed his unchanging judgment, and in December, 1787, he wrote of it officially to Jay: "The public mind cannot be occupied about a nobler object than the proposed plan of government. It appears to be admirably calculated to cement all America in affection and interest, as one great nation. A result of compromise cannot perfectly coincide with every one's ideas of perfection; but, as all the great principles necessary to order, liberty, and safety are respected in it, and provision is made for amendments as they may be found necessary, I hope to hear of its adoption by all the states."[4]

[1] Jefferson, ii. 398, 399, 404.
[2] Jefferson, ii. 445.
[3] Jefferson, ii. 585, 586.
[4] John Adams's Works, viii. 467; Dip. Corr., v. 356.

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CHAPTER IV.

THE CONSTITUTION IN NEW HAMPSHIRE, MARYLAND, AND SOUTH CAROLINA.

LANGDON, the outgoing chief magistrate of New Hampshire, and Sullivan, his successful competitor, vied with each other in zeal for federal measures; but when in February, 1788, the convention of the state came together there appeared to be a small majority against any change. In a seven days' debate, Joshua Atherton, of Amherst; William Hooper, the minister of Marbury; Matthias Stone, deacon of the church in Claremont; Abiel Parker, from Jaffrey, reproduced the objections that had been urged in the neighboring state; while John Sullivan, John Langdon, Samuel Livermore, Josiah Bartlett, and John Pickering explained and defended it with conciliatory moderation. When zealots complained of the want of a religious test, Samuel Langdon, lately president of Harvard College, but now a minister of the gospel at Hampton Falls, demonstrated that religion is a question between God and man in which no civil authority may interfere. Dow, from Weare, spoke against the twenty years' sufferance of the for-

1788. Feb.

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1788. Feb.

eign slave-trade; and to the explanation of Langdon that under the confederation the power exists without limit, Atherton answered: "It is our full purpose to wash our hands clear of becoming its guarantees even for a term of years."

The friends of the constitution won converts enough to hold the balance; but these were fettered by instructions from their towns. To give them an opportunity to consult their constituents, the friends of the constitution proposed an adjournment till June; saying, with other reasons, that it would be very prudent for a small state like New Hampshire to wait and see what the other states would do. This was the argument which had the greatest weight.[1] The place of meeting was changed from Exeter, a stronghold of federalism, to Concord; and the adjournment was then carried by a slender majority.[2]

1787. Nov.

The assembly of Maryland in November, 1787, summoned its delegates to the federal convention to give them information of its proceedings; and Martin rehearsed to them and published to the world his three days' arraignment of that body for having exceeded its authority. He was answered by McHenry, who, by a concise analysis of the constitution, drew to himself the sympathy of his hearers. The legislature unanimously ordered a convention of the people of the state; it copied the example set by Virginia of leaving the door open for amendments;[3] and by a majority of one the day for the choice, and the day

[1] Report in the Mass. Spy, copied into Ind. Gazetteer of 9 April, 1788.

[2] Ind. Gazetteer, 17 March, 1788.

[3] Madison to Jefferson, 9 Dec., 1787; Madison, i. 363, 364.

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for the meeting of its convention, were postponed till the next April.

1787. Nov.

The long delay gave opportunity for the cabalings of the anti-federalists in Virginia.[1] Richard H. Lee was as zealous as ever; and Patrick Henry disseminated propositions for a southern confederacy;[2] but Washington, who felt himself at home on the Maryland side of the Potomac, toiled fearlessly and faithfully, with Madison at his side, for the immediate and unconditioned ratification of the constitution by the South.

Charles Carter, of Virginia, had written a congratulatory letter to Washington as president of the late federal convention; there soon appeared in the newspapers his reply, all the more interesting because written with unguarded frankness: "My decided opinion is, that there is no alternative between the adoption of the proceedings of the convention and anarchy. If one state, however important it may conceive itself to be," meaning Virginia, "or a minority of them should suppose that they can dictate a constitution to the union (unless they have the power of applying the *ultima ratio* to good effect), they will find themselves deceived. All the opposition to it that I have yet seen is addressed more to the passions than to reason; and clear I am, if another federal convention is attempted, that the sentiments of the members will be more discordant or less accommodating than the last. In fine, they will agree upon no general plan. General government is now suspended

[1] Letters to Washington, iv. 196.

[2] This is repeatedly told of Henry by Carrington.

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1787. Dec. by a thread; I might go further, and say it is really at an end; and what will be the consequence of a fruitless attempt to amend the one which is offered, before it is tried, or of the delay of the attempt, does not, in my judgment, need the gift of prophecy to predict. The constitution or disunion is before us to choose from. If the first is our election, when the defects of it are experienced, a constitutional door is opened for amendments, and may be adopted in a peaceable manner, without tumult or disorder."[1]

In the three months' interval before the election, the fields and forests and towns of Maryland were alive with thought; the merits of the constitution

1788. were scanned and sifted in every public meeting and at every hearth; and on the day for choosing delegates, each voter, in designating the candidate of his preference, registered his own deliberate decision. In fifteen counties, and the cities of Baltimore and Annapolis, there was no diversity of sentiment. Two counties only returned none but anti-federalists; Harford county elected three of that party and one trimmer.

April 20. The day before the convention was to assemble, Washington, guarding against the only danger that remained, addressed a well-considered letter to Thomas Johnson: "An adjournment of your convention will be tantamount to the rejection of the constitution. It cannot be too much deprecated and guarded against. Great use is made of the postponement in New Hampshire, although it has no reference to the

[1] Washington to Charles Carter, 14 Dec., 1787; Penn. Packet, 11 Jan., 1788.

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convention of this state. An event similar to this in Maryland would have the worst tendency imaginable; for indecision there would certainly have considerable influence upon South Carolina, the only other state which is to precede Virginia; and it submits the question almost wholly to the determination of the latter. The pride of the state is already touched, and will be raised much higher if there is fresh cause."[1] CHAP. IV. 1788. April 20.

The advice, which was confirmed by similar letters from Madison, was communicated to several of the members; so that the healing influence of Virginia proved greater than its power to wound. But the men of Maryland of themselves knew their duty, and Washington's advice was but an encouragement for them to proceed in the way which they had chosen.

On Monday, the twenty-first of April, a quorum of the convention assembled at Annapolis. The settlement of representation in the two branches of the federal legislature was pleasing to all the representatives of fifteen counties, and the cities of Baltimore and Annapolis agreed with each other perfectly that the main question had already been decided by the people in their respective counties; and that the ratification of the constitution, the single transaction for which they were convened, ought to be speedily completed. Two days were given to the organization of the house and establishing rules for its government; on the third the constitution was read a 21.

[1] Washington to Thomas Johnson, 20 April, 1788; T. Johnson to Washington, 10 Oct., 1788. Compare Washington to James McHenry, 27 April, 1788, MS.; to Daniel of St. Thomas Jenifer, 27 April, 1788, MS.; to James Madison, 2 May, 1788, MS.

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CHAP. IV.

1788. April 21. first time, and the motion for its ratification was formally made. The plan of a confederacy of slave-holding states found not one supporter; not one suggested an adjournment for the purpose of consultation with Virginia. The malcontents could embarrass the convention only by proposing pernicious amendments.

24. On the morning of the fourth day Samuel Chase took his seat, and at the second reading of the constitution began from elaborate notes the fiercest opposition: The powers to be vested in the new government are deadly to the cause of liberty, and should be amended before adoption; five states can now force a concession of amendments which after the national government shall go into operation could be carried only by nine.[1] He spoke till he was exhausted, intending to resume his argument on the following day.

In the afternoon, William Paca, of Harford county, a signer of the declaration of independence, appeared for the first time and sought to steer between the clashing opinions, saying: "I have a variety of objections; not as conditions, but to accompany the ratification as standing instructions to the representatives of Maryland in congress." To Johnson the request seemed candid; and on his motion the convention adjourned to the next morning.[2] The interval was employed in preparing a set of amendments to the constitution, which were adapted to injure the cause of federalism in Virginia.[3]

[1] Notes of Chase on the constitution, MS.; and the historical address of Alex. C. Hanson, MS.

[2] Hanson's MS. narrative.

[3] James McHenry to Washington, 18 May, 1788. MS.

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CHAP. IV.

On Friday morning, a member from each of eleven several counties and the two cities, one after the other, declared "that he and his colleagues were under an obligation to vote for the government;" and almost all declared further that they had no authority to propose amendments which their constituents had never considered, and of course could never have directed.[1] When Paca began to read his amendments, he was called to order by George Gale, of Somerset county, the question before the house being still "on the ratification of the constitution." Chase once more "made a display of all his eloquence;" John F. Mercer discharged his whole "artillery of inflammable matter;" and Martin rioted in boisterous "vehemence;" "but no converts were made; no, not one."[2]

1788. April 25.

The friends to the federal government "remained inflexibly silent." The malcontents having tired themselves out, between two and three o'clock on Saturday, the twenty-sixth, the constitution was ratified by sixty-three votes against eleven, Paca voting with the majority. Proud of its great majority of nearly six to one, the convention fixed Monday, at three o'clock, for the time when they would all set their names to the instrument of ratification.

26.

Paca then brought forward his numerous amendments, saying that with them his constituents would receive the constitution, without them would oppose it even with arms.[3] After a short but perplexed debate he was indulged in the appointment of a com-

[1] Alex. C. Hanson. MS. Elliot, ii. 548.

[2] Washington to Madison, 2 May, 1788. MS.

[3] Hanson. MS.

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CHAP. IV.

1788. April 26. mittee of thirteen, of which he himself was the chairman; but they had power only to recommend amendments to the consideration of the people of Maryland. The majority of the committee readily acceded to thirteen resolutions, explaining the constitution according to the construction of its friends, and restraining congress from exercising power not expressly delegated. The minority demanded more; the committee fell into a wrangle; the convention on

28. Monday sent a summons for them; and Paca, taking the side of the minority, would make no report. Thereupon the convention dissolved itself by a great majority.

The accession of Maryland to the new union by a vote of nearly six to one brought to the constitution the majority of the thirteen United States, and a great majority of their free inhabitants. The state which was cradled in religious liberty gained the undisputed victory over the first velleity of the slave-holding states to form a separate confederacy. "It is a thorn in the sides of the leaders of opposition in this state!" wrote Washington to Madison.[1] His words of congratulation to Jenifer, of Maryland, were: "Seven affirmative without a negative would almost convert the unerring sister. The fiat of your convention will most assuredly raise the edifice."[2]

In his hours of meditation he saw the movement of the divine power which gives unity to the universe, and order and connection to events: "It is impracticable for any one who has not been on the spot to

[1] Washington to Madison, 2 May, 1788. MS.

[2] Washington to Daniel of St. Thomas Jenifer, 27 April, 1788. MS.

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realize the change in men's minds, and the progress toward rectitude in thinking and acting. CHAP. IV.

"The plot thickens fast. A few short weeks will determine the political fate of America for the present generation, and probably produce no small influence on the happiness of society through a long succession of ages to come. Should everything proceed with harmony and consent according to our actual wishes and expectations, it will be so much beyond anything we had a right to imagine or expect eighteen months ago that it will, as visibly as any possible event in the course of human affairs, demonstrate the finger of Providence."[1] 1788. April 28.

In South Carolina the new constitution awakened fears of oppressive navigation acts and of disturbance in the ownership of slaves. The inhabitants of the upper country, who suffered from the undue legislative power of the city of Charleston and the lower counties, foreboded new inequalities from a consolidation of the union. A part of the low country, still suffering from the war, had shared the rage for instalment laws, paper money, and payment of debts by appraised property; and to all these the new constitution made an end.

The opposition from Virginia[2] intrigued for a southern confederacy, while Madison, in entire unison with Washington, wrote to his friends in behalf of union.[3] They both knew that there was to be resistance to the constitution, with Rawlins Lowndes for

[1] Washington to the Marquis de la Fayette, 28 May, 1788. MS.

[2] Jefferson to Shippen, 14 July, 1788. "Mr. Henry disseminated propositions there for a southern confederacy."

[3] Madison to Washington, 10 April, 1788. Works, i. 384, 385.

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CHAP. IV. 1788. Jan. 16.

its spokesman; and as he could by no possibility be elected into the convention, the chief scene of the opposition could only be the legislature.[1]

In January, 1788, the senate unanimously voted thanks to the members from their state in the federal convention for their faithfulness. On the sixteenth, in the committee of the whole house of representatives, Charles Pinckney gave a history[2] of the formation and the character of "the federal republic;" which was to operate upon the people and not upon the states. At once Lowndes[3] objected that the interests of South Carolina were endangered by the clause in the constitution according to which a treaty to be made by two thirds of the senate, and a president who was not likely ever to be chosen from South Carolina or Georgia, would be the supreme law of the land. Cotesworth Pinckney condemned the reasoning as disingenuous. "Every treaty," said John Rutledge, "is law paramount and must operate,"[4] not less under the confederation than under the constitution.[5] "If treaties are not superior to local laws," asked Ramsay, "who will trust them?"[6] Lowndes proceeded, saying of the confederation: "We are now under a most excellent constitution—a blessing from Heaven, that has stood the test of time, and given us liberty and independence; yet we are impatient to pull down that fabric which we raised at the expense of our blood."[7] Now, Rawlins Lowndes had pertinaciously resisted the declaration of inde-

[1] Madison, i. 382.
[2] Elliot, iv. 253–263.
[3] Elliot, iv. 262–265.
[4] Elliot, iv. 267.
[5] Elliot, iv. 268.
[6] Elliot, iv. 270.
[7] Elliot, iv. 271, 272.

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pendence; and, when in 1778 South Carolina had made him her governor, had in her reverses sought British protection. He proceeded: "When this new constitution shall be adopted, the sun of the southern states will set, never to rise again. What cause is there for jealousy of our importing negroes? Why confine us to twenty years? Why limit us at all? This trade can be justified on the principles of religion and humanity. They do not like our slaves because they have none themselves, and, therefore, want to exclude us from this great advantage." 1788. Jan. 16.

"Every state," interposed Pendleton, "has prohibited the importation of negroes except Georgia and the two Carolinas."

Lowndes continued: "Without negroes this state would degenerate into one of the most contemptible in the union. Negroes are our wealth, our only natural resource; yet our kind friends in the North are determined soon to tie up our hands, and drain us of what we have."

"Against the restrictions that might be laid on the African trade after the year 1808," said Cotesworth Pinckney, "your delegates had to contend with the religious and political prejudices of the eastern and middle states, and with the interested and inconsistent opinion of Virginia. It was alleged that slaves increase the weakness of any state which admits them; that an invading enemy could easily turn them against ourselves and the neighboring states; and that, as we are allowed a representation for them, our influence in government would be increased in proportion as we were less able to defend ourselves.

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CHAP. IV.

1788. Jan. 16.

'Show some period,' said the members from the eastern states, 'when it may be in our power to put a stop, if we please, to the importation of this weakness, and we will endeavor, for your convenience, to restrain the religious and political prejudices of our people on this subject.' The middle states and Virginia made us no such proposition; they were for an immediate and total prohibition. A committee of the states was appointed in order to accommodate this matter, and, after a great deal of difficulty, it was settled on the footing recited in the constitution.

"By this settlement we have secured an unlimited importation of negroes for twenty years. The general government can never emancipate them, for no such authority is granted, and it is admitted on all hands that the general government has no powers but what are expressly granted by the constitution. We have obtained a right to recover our slaves in whatever part of America they may take refuge, which is a right we had not before. In short, considering all circumstances, we have made the best terms in our power for the security of this species of property. We would have made better if we could; but, on the whole, I do not think them bad."[1]

"Six of the seven eastern states," continued Lowndes, "form a majority in the house of representatives. Their interest will so predominate as to divest us of any pretensions to the title of a republic. They draw their subsistence, in a great measure, from their shipping; the regulation of our commerce throws

[1] Elliot, iv. 277–286.

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into their hands the carrying trade under payment of whatever freightage they think proper to impose.[1] Why should the southern states allow this without the consent of nine states? If at any future period we should remonstrate, 'mind your business' will be the style of language held out toward the southern states." "The fears that the northern interests will prevail at all times," said Edward Rutledge, "are ill-founded. Carry your views into futurity. The northern states are already full of people; the migrations to the South are immense; in a few years we shall rise high in our representation, while other states will keep their present position."[2] 1788. Jan. 16.

The argument of Lowndes rested on the idea that the southern states are weak. "We are weak," said Cotesworth Pinckney; "by ourselves we cannot form a union strong enough for the purpose of effectually protecting each other. Without union with the other states, South Carolina must soon fall. Is there any one among us so much a Quixote as to suppose that this state could long maintain her independence if she stood alone, or was only connected with the southern states? I scarcely believe there is. As, from the nature of our climate and the fewness of our inhabitants, we are undoubtedly weak, should we not endeavor to form a close union with the eastern states, who are strong? We certainly ought to endeavor to increase that species of strength which will render them of most service to us both in peace and war. I mean their navy. Justice to them and humanity, interest and policy, concur in prevailing upon 17.

[1] Elliot, iv. 288.

[2] Elliot, iv. 276, 277.

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CHAP. IV.

us to submit the regulation of commerce to the general government."[1]

1788. Jan. 17. Lowndes renewed his eulogy on the old confederation. "The men who signed it were eminent for patriotism and virtue; and their wisdom and prudence particularly appear in their care sacredly to guarantee the sovereignty of each state. The treaty of peace expressly agreed to acknowledge us free, sovereign, and independent states; but this new constitution, being sovereign over all, sweeps those privileges away."[2]

18. Cotesworth Pinckney answered: "We were independent before the treaty, which does not grant, but acknowledges our independence. We ought to date that invaluable blessing from a much older charter than the treaty of peace; from a charter which our babes should be taught to lisp in their cradles; which our youth should learn as a *carmen necessarium*; or indispensable lesson; which our young men should regard as their compact of freedom; and which our old should repeat with ejaculations of gratitude for the bounties it is about to bestow on their posterity. I mean the declaration of independence, made in congress the 4th of July, 1776. This admirable manifesto, which for importance of matter and elegance of composition stands unrivalled, sufficiently confutes the honorable gentleman's doctrine of the individual sovereignty and independence of the several states.

"The separate independence and individual sovereignty of the several states were never thought of by

[1] Elliot, iv. 283, 284. [2] Elliot, iv. 287.

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CHAP. IV.

1788. Jan. 18.

the enlightened band of patriots who framed this declaration. The several states are not even mentioned by name in any part of it; as if to impress on America that our freedom and independence arose from our union, and that without it we could neither be free nor independent. Let us, then, consider all attempts to weaken this union by maintaining that each state is separately and individually independent, as a species of political heresy which can never benefit us, but may bring on us the most serious distresses."[1]

Lowndes sought to rally to his side the friends of paper money, and asked triumphantly: "What harm has paper money done?" "What harm?" retorted Cotesworth Pinckney. "Beyond losses by depreciation, paper money has corrupted the morals of the people; has diverted them from the paths of honest industry to the ways of ruinous speculation; has destroyed both public and private credit; and has brought total ruin on numberless widows and orphans."[2]

James Lincoln, of Ninety-six, pressed the objection that the constitution contained no bill of rights.[3] Cotesworth Pinckney answered: "By delegating express powers, we certainly reserve to ourselves every power and right not mentioned in the constitution. Another reason weighed particularly with the members from this state. Bills of rights generally begin with declaring that all men are by nature born free. Now, we should make that declaration with a very

[1] Elliot, iv. 301, 302.
[2] Elliot, iv. 306.
[3] Elliot, iv. 312.

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CHAP. IV.

bad grace when a large part of our property consists in men who are actually born slaves."[1]

1788. Jan. 17. Lowndes, following the desire of the opposition of Virginia, had recommended another convention in which every objection could be met on fair grounds, and adequate remedies applied.[2] The proposal found no acceptance; but he persevered in cavilling and objecting.

18. At last John Rutledge impatiently expressed a hope that Lowndes would find a seat in the coming convention, and pledged himself there to prove that all those grounds on which he dwelt amounted to no more than mere declamation; that his boasted confederation was not worth a farthing; that if such instruments were piled up to his chin they would not shield him from one single national calamity; that the sun of this state, so far from being obscured by the new constitution, would, when united with twelve other suns, astonish the world by its lustre.[3]

The resolution for a convention to consider the constitution was unanimously adopted.[4] In the rivalry between Charleston and Columbia as its place of meeting, Charleston carried the day by a majority of one vote.[5]

The purest spirit of patriotism and union and veneration for the men of the revolution pervaded South Carolina at the time of her choice of delegates. Foremost among them were the venerable Christopher Gadsden and John Rutledge, Moultrie and Motte, William Washington, Edward Rutledge, the three Pinckneys, Grimké, and Ramsay; the chancel-

[1] Elliot, iv. 315, 316.
[2] Elliot, iv. 290.
[3] Elliot, iv. 312.
[4] Elliot, iv. 316.
[5] Elliot, iv. 317.

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lor and the leading judges of the state; men chiefly of English, Scotch, Scotch-Irish, and Huguenot descent; a thorough representation of the best elements and culture of South Carolina. CHAP. IV. 1788.

The convention organized itself on the thirteenth of May,[1] with Thomas Pinckney, then Governor of South Carolina, as president. The ablest man in the opposition was Edanus Burke; but the leader in support of the Virginia malcontents was Sumter. A week's quiet consideration of the constitution by paragraphs showed the disposition of the convention, when on the twenty-first Sumter, as a last effort of those who wished to act with Virginia, made a motion for an adjournment for five months, to give time for the further consideration of the federal convention.[2] A few gave way to the hope of conciliating by moderation; but after debate the motion received only eighty-nine votes against one hundred and thirty-five.[3] Three or four amendments were recommended; and then, at five o'clock in the evening of the twenty-third, the constitution was ratified by one hundred and forty-nine votes against seventy-three—more than two to one.[4] As the count was declared, the dense crowd in attendance, carried away by a wild transport of joy, shook the air with their cheers. May 13. 21. 23.

When order was restored, the aged Christopher Gadsden said: "I can have but little expectation of seeing the happy effects that will result to my country from the wise decisions of this day, but I shall say with good old Simeon: Lord, now lettest thou

[1] Elliot, iv. 318.
[2] Elliot, iv. 338.
[3] Elliot, iv. 338.
[4] Elliot, iv. 338–340.

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thy servant depart in peace, for mine eyes have seen the salvation of my country."[1]

1788. May 23.

The delegates of South Carolina to the federal convention received a vote of thanks. Those in the opposition promised as good citizens to accept the result. In 1765 South Carolina was one of the nine states to meet in convention for resistance to the stamp act; and now she was the eighth state of the nine required for the adoption of the constitution.

When the astonishing tidings reached New Hampshire, her people grew restless to be the state yet needed to assure the new bond of union; but for that palm she must run a race with Virginia.

[1] Penn. Packet, 14 June, 1788.

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CHAPTER V.

THE CONSTITUTION IN VIRGINIA AND IN NEW HAMPSHIRE.

FROM Virginia proceeded the southern opposition to the consolidation of the union. A strife in congress, in which the North was too much in the wrong to succeed, united the five southernmost states together in a struggle which endangered the constitution.

1785. May. In May, 1785, Diego Gardoqui arrived, charged with the affairs of Spain, and seemingly empowered to fix the respective limits and adjust other points[1] between two countries which bordered on each other from the Atlantic to the headspring of the Mississippi. Negotiations began: but Jay was required by July 20. congress to submit to them every proposition made or received, to sign no treaty without their previous approval, to maintain the territorial bounds of the United States as set forth in the treaty of peace with England, and to assert the right of the free navigation of the Mississippi from its source to the ocean.[2] Jay held the friendship of Spain most desirable as a

[1] Dip. Cor., vi. 81–97. Secret Journals, iii. 569, 570.

[2] Secret Journals, iii. 586.

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CHAP. V.

neighbor; as a force that could protect the United States from the piracies of the Barbary powers and conciliate the good-will of Portugal and Italy; as a restraint on the influence of France and of Great Britain; and as the ruler of dominions of which the trade offered tempting advantages. He therefore proposed that the United States, as the price of a treaty of reciprocity in commerce, should forego the navigation of the Mississippi for twenty-five or thirty years.

1785. July 20.

1786. Aug. 3.

On the third of August, Jay appeared before congress and read an elaborate paper, in which he endeavored to prove that the experiment was worth trying.[1] The proposal sacrificed a vitally important right of one part of the union to a commercial interest of another; yet the instruction which made the right to the navigation of the Mississippi an ultimatum in any treaty with Spain was, after three weeks reflection, repealed by a vote of seven northern states against Maryland and all south of it.

28. The members of the southern states were profoundly alarmed. On the report of the committee to the house, Charles Pinckney, supported by Carrington, sought to transfer the negotiation to Madrid;

29. but in vain. The delegates of Virginia, Grayson at their head, strove to separate the commercial questions from those on boundaries and navigation. "The surrender or proposed forbearance of the navigation of the Mississippi," they said, "is inadmissible upon the principle of the right, and upon the highest principles of national expedience. In the present state of the powers of congress, every wise

[1] Dip. Cor., vi. 177.

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statesman should pursue a system of conduct to gain the confidence of the several states in the federal council, and thereby an extension of its powers. This act is a dismemberment of the government. Can the United States then dismember the government by a treaty of commerce?" But the North persisted.[1] CHAP. V. 1786. Aug. 29.

Monroe still loyally retained his desire that the regulation of commerce should be in the hands of the United States, and his opinion that without that power the union would infallibly tumble to pieces; but now he looked about him for means to strengthen the position of his own section of the country; and to Madison he wrote: "I earnestly wish the admission of a few additional states into the confederacy in the southern scale."[2] "There is danger," reported Otto to Vergennes,[3] "that the discussion may become the germ of a separation of the southern states." Murmurs arose that plans were forming in New York for dismembering the confederacy and throwing New York and New England into one government, with the addition, if possible, of New Jersey and Pennsylvania. "Even should the measure triumph under the whole thirteen states," wrote Madison, "it is not expedient because it is not just."[4] The next legislature of Virginia unanimously resolved "that nature had given the Mississippi to the United States, that the sacrifice of it would violate justice, contravene the end of the federal government, and destroy confidence in the federal councils necessary to a proper enlargement of their authority." Sept. 8. 10.

[1] Secret Journal, iv. 87–110.
[2] Monroe to Madison, 8 Sept., 1786.
[3] Otto to Vergennes, 10 Sept., 1786.
[4] Madison, i. 250.

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The plan could not succeed, for it never had the consent of Spain, and if it should be formed into a
1786. treaty, the treaty could never obtain votes enough for its ratification. In the new congress, New Jersey left the North; Pennsylvania, of which a large part lay in the Mississippi valley, became equally divided; and Rhode Island began to doubt. But already many of Virginia's "most federal" statesmen were
1787. extremely disturbed; Patrick Henry, who had hitherto been the champion of the federal cause, refused to attend the federal convention that he might remain free to combat its result; and an uncontrollable spirit of distrust drove Kentucky to listen to Richard Henry Lee, and imperilled the new constitution.

1788. The people of Virginia, whose undisputed territory had ample harbors convenient to the ocean, and no western limit but the Mississippi, had never aspired to form a separate republic. They had deliberately surrendered their claim to the north-west territory; and true to the idea that a state should not be too large for the convenience of home rule, they seconded the desire of Kentucky to become a commonwealth by itself. The opinion of Washington that the constitution would be adopted by Virginia was not
Jan. shaken.[1] Relieved from anxiety at home, he found time to watch the gathering clouds of revolution in Europe, and shaped in his own mind the foreign policy of the republic. His conclusions, which on New Year's day, 1788, he confided to Jefferson, his future adviser on the foreign relations of the coun-

[1] Washington to Knox, 10 Jan., 1788. to Samuel Powell, 18 Jan., 1788. MS. Washington MS.

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try, were in substance precisely as follows: The American revolution has spread through Europe a better knowledge of the rights of mankind, the privileges of the people, and the principles of liberty than has existed in any former period; a war in that quarter is likely to be kindled, especially between France and England; in the impending struggle, an energetic general government must prevent the several states from involving themselves in the political disputes of the European powers. The situation of the United States is such as makes it not only unnecessary but extremely imprudent for them to take part in foreign quarrels. Let them wisely and properly improve the advantages which nature has given them, and conduct themselves with circumspection. By that policy, and by giving security to property and liberty, they will become the asylum of the peaceful, the industrious, and the wealthy from all parts of the civilized world.[1]

Nor did Washington cease his vigilant activity to confirm Virginia in federal opinions. Especially to Edmund Randolph, then governor of Virginia and in the height of his popularity, he addressed himself[2] with convincing earnestness, and yet with a delicacy that seemed to leave the mind of Randolph to its own workings. 8.

Madison likewise, in his zeal to see "a coalition among all the real federalists,"[3] kept up with Randolph a most friendly and persuasive correspondence.

[1] Washington to Jefferson, 1 Jan., 1788. Compare Washington to Knox, 10 Jan., 1788. MS.

[2] Washington to Edmund Randolph, 8 Jan., 1788. Sparks, ix. 297.

[3] Madison to E. Randolph. Works, i. 386.

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CHAP. V.

1788. Jan.

As a natural consequence, the governor, who began to see the impossibility of obtaining amendments without endangering the success of the constitution, soon planted himself among its defenders; while Monroe, leaving his inconsistency unexplained, was drawn toward the adversaries of Madison.

The example of Massachusetts had great influence by its mere recommendation of amendments; and still more by the avowed determination of the defeated party honestly to support the decision of the majority. But while the more moderate of the malcontents "appeared to be preparing for a decent submission," and even Richard Henry Lee set bounds to his opposition,[1] the language of Henry was: "The other states cannot do without Virginia, and we can dictate to them what terms we please." "His plans extended contingently even to foreign alliances."[2]

18.

The report from the federal convention agitated the people more than any subject since the first days of the revolution; but with a greater division of opinion.[3] It was remarked that while in the seven northern states the principal officers of government and largest holders of property, the judges and lawyers, the clergy and men of letters, were almost without exception devoted to the constitution, in Virginia the bar and the men of the most culture and property were divided. In Virginia, too, where the mass of the people, though accustomed to be guided by their favorite statesmen on all new and

[1] Compare Cyrus Griffin to Thomas Fitzsimons, 18 Feb., 1788. MS.

[2] Carrington to Madison, 18 Jan., 1788. MS.

[3] Monroe to Madison, 18 Oct., 1787. MS.

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intricate questions, now, on a question which surpassed all others in novelty and intricacy, broke away from their lead and followed a mysterious and prophetic influence which rose from the heart. The phenomenon was the more wonderful, as all the adversaries of the new constitution justified their opposition on the ground of danger to the liberties of the people.[1] And over all discussions, in private or in public, there hovered the idea that Washington was to lead the country safely along the untrodden path. 1788. Jan. 18.

In the time preceding the election, the men of Kentucky were made to fear the surrender of the Mississippi by the federal government; and the Baptists, the reunion of church and state.[2] The election of Madison to the convention was held to be indispensable.[3] "He will be the main pillar of the constitution," thought Jefferson; "but though an immensely powerful one, it is questionable whether he can bear the weight of such a host."[4] But the plan for a southern confederacy was crushed by the fidelity of South Carolina; and Washington, who had foreseen the event, cheered Madison on with the good words: "The eloquence of eight affirmatives for the constitution ought to cause even 'the unerring sister' to hesitate."[5]

On the day appointed for the meeting of the convention a quorum was present in Richmond. It was auspicious that Edmund Pendleton, the chancellor, was unanimously chosen its president. The building June 2.

[1] Madison, i. 365, 366.

[2] James Madison, Sr., to his son, 30 Jan., 1788, MS.; Semple's Baptists in Virginia, 76, 77.

[3] Washington in Rives, ii. 547.

[4] Jefferson, Randolph's ed., ii. 270; in Rives, ii. 558.

[5] Washington to Madison, 2 May, 1788. MS.

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CHAP. V.

1788. June 2. which would hold the most listeners was made the place of meeting, but Henry was alarmed at the presence of short-hand reporters from the Philadelphia press, as he wished "to speak the language of his soul"[1] without the reserve of circumspection. During the period of the confederation, which had existed but little more than seven years, it had become known that slavery and its industrial results divided the South from the North; and this conviction exercised a subtle influence.

3. George Mason, following the advice of Richard Henry Lee,[2] and the precedent of Massachusetts, proposed that no question relating to the constitution should be propounded until it should have been discussed clause by clause; and this was acquiesced in unanimously. The debates which ensued cannot be followed in the order of time, for Henry broke through every rule; but an outline must be given of those which foreshadowed the future.

4. Patrick Henry dashed instantly into the battle, saying: "The constitution is a severance of the confederacy. Its language, 'WE THE PEOPLE,' is the institution of one great consolidated national government of the people of all the states, instead of a government by compact with the states for its agents. The people gave the convention no power to use their name."[3]

"The question," said Randolph, "is now between union and no union, and I would sooner lop off my right arm than consent to a dissolution of the union."[4]

[1] Penn. Packet, 12 June, 1788.
[2] R. H. Lee to G. Mason, 7 May, 1788. Letter in Life of R. H. L., ii. 89.
[3] Elliot, iii. 23.
[4] Elliot, iii. 25, 26.

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"It is a national government," said George Mason, losing his self-control and becoming inconsistent. "It is ascertained by history that there never was one government over a very extensive country without destroying the liberties of the people. The power of laying direct taxes changes the confederation. The general government being paramount and more powerful, the state governments must give way to it; and a general consolidated government is one of the worst curses that can befall a nation."[1] CHAP. V. 1788. June 4.

"There is no quarrel between government and liberty," said Pendleton; "the former is the shield and protector of the latter. The expression 'We the people' is a common one, and with me is a favorite. Who but the people can delegate powers, or have a right to form government? The question must be between this government and the confederation; the latter is no government at all. Common danger, union, and the spirit of America carried us through the war, and not the confederation of which the moment of peace showed the imbecility. Government, to be effectual, must have complete powers, a legislature, a judiciary, an executive. No gentleman in this committee would agree to vest these three powers in one body. The proposed government is not a consolidated government. It is on the whole complexion of it a government of laws and not of men."[2] 5.

Madison explained at large that the constitution is in part a consolidated union, and in part rests so completely on the states that its very life is bound up in theirs. And on another day he added: "The powers 11.

[1] Elliot, iii. 29–83. [2] Elliot, iii. 35–41.

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vested in the proposed government are not so much an augmentation of powers in the general government, as a change rendered necessary for the purpose of giving efficacy to those which were vested in it before."[1]

1788. June 11.

10. The opposition set no bounds to their eulogy of the British constitution as compared with the proposed one for America. "The wisdom of the English constitution," said Monroe, "has given a share of the legislation to each of the three branches, which enables it to defend itself and to preserve the liberty of the people. In the plan for America I can see no real checks."[2] "We have not materials in this country," said Grayson, "for such a government as the British monarchy; but I would have a president for life, choosing his successor at the same time; a senate for life, with the powers of the house of lords; and a triennial house of representatives, with the powers of the house of commons in England."[3] "How natural it is," said Henry, "when comparing deformities to beauty, to be struck with the superiority of the British government to the proposed system. In England self-love, self-interest stimulates the executive to advance the prosperity of the nation. Man cannot be depended on without self-love. Your president will not have the same motives of self-love to impel him to favor your interests. His political character is but transient. In the British government the sword and purse are not united in the same hands; in this system they are. Does not infinite security result from a separation?"[4]

11.

14.

[1] Elliot, iii. 86–97, and 259.
[2] Elliot, iii. 218, 219.
[3] Elliot, iii. 279.
[4] Elliot, iii. 387, 388.

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Madison replied: "There never was, there never will be, an efficient government in which both the sword and purse are not vested, though they may not be given to the same member of government. The sword is in the hands of the British king; the purse in the hands of the parliament. It is so in America, as far as any analogy can exist. When power is necessary and can be safely lodged, reason commands its cession. From the first moment that my mind was capable of contemplating political subjects I have had a uniform zeal for a well-regulated republican government. The establishment of it in America is my most ardent desire. If the bands of the government be relaxed, anarchy will produce despotism. Faction and confusion preceded the revolutions in Germany; faction and confusion produced the disorders and commotions of Holland. In this commonwealth, and in every state in the union, the relaxed operation of the government has been sufficient to alarm the friends of their country. The rapid increase of population strongly calls for a republican organization. There is more responsibility in the proposed government than in the English. Our representatives are chosen for two years, in England for seven. Any citizen may be elected here; in Great Britain no one without an estate of the annual value of six hundred pounds sterling can represent a county; nor a corporation without half as much. If confidence be due to the government there, it is due tenfold here."[1]

CHAP. V.

1788. June 14.

Against the judiciary as constituted by the consti- 20.

[1] Elliot, iii. 393–395.

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CHAP. V.

1788. June 20.

tution Henry exceeded himself in vehemence, finding dangers to the state courts by the number of its tribunals, by appellate jurisdictions, controversies between a state and the citizens of another state; dangers to the trial by jury; dangers springing out of the clause against the impairment of the obligations of a contract.

Of the judiciary system, Marshall, following able speakers on the same side, summed up the defence. "Tribunals for the decisions of controversies, which were before either not at all or improperly provided for, are here appointed.[1] Federal courts will determine causes with the same fairness and impartiality as the state courts. The federal judges are chosen with equal wisdom, and they are equally or more independent. The power of creating a number of courts is necessary to the perfection of this system.[2] The jurisdiction of the judiciary has its limit. The United States court cannot extend to everything, since, if the United States were to make a law not warranted by any of the enumerated powers, the judges would consider it as an infringement of the constitution. The state courts are crowded with suits; if some of them should be carried to a federal court, the state courts will still have business enough.[3] To the judiciary you must look for protection from an infringement on the constitution. No other body can afford it.[4] The jurisdiction of the federal courts over disputes between a state and the citizens of another state has been decried with unusual vehemence.[5]

[1] Elliot, iii. 551.
[2] Elliot, iii. 553.
[3] Ibid.
[4] Elliot, iii. 554.
[5] Elliot, iii. 555.

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There is a difficulty in making a state defendant which does not prevent its being plaintiff. It is not rational to suppose that the sovereign power should be dragged before a court. The intent is to enable states to recover claims against individuals residing in other states. This construction is warranted by the words."[1] On the clause relating to impairing the obligation of contracts, Marshall said this: "A suit instituted in the federal courts by the citizens of one state against the citizens of another state will be instituted in the court where the defendant resides, and will be determined by the laws of the state where the contract was made. The laws which govern the contract at its formation govern it at its decision.[2] Whether this man or that man succeeds is to the government all one thing.[3] Congress is empowered to make exceptions to the appellate jurisdiction of the supreme court, both as to law and as to fact; and these exceptions certainly go as far as the legislature may think proper for the interest and liberty of the people."[4]

The planters of Virginia were indebted to British merchants to the amount of ten millions of dollars; and the Virginia legislature, under the influence of Henry, had withheld from these creditors the right to sue in the courts of Virginia until England should have fulfilled her part of the treaty of peace by surrendering the western posts and by making compensation for slaves that had been carried away; he now censured the federal constitution for granting in the

[1] Elliot, iii. 555.
[2] Elliot, iii. 556, 557.
[3] Elliot, iii. 558.
[4] Elliot, iii. 560.

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1788. June 20. case retrospective jurisdiction. Marshall replied: "There is a difference between a tribunal which shall give effect to an existing right, and creating a right that did not exist before. The debt or claim is created by the individual; a creation of a new court does not amount to a retrospective law."[1]

Questions on the powers which it would be wise to grant to the general government, and on what powers had been granted, divided the convention. The decision of Maryland and South Carolina dashed the hope of proselyting Virginia to propose a sep-
9. arate southern confederacy; but Henry still said: "Compared with the consolidation of one power to reign with a strong hand over so extensive a country as this is, small confederacies are little evils. Virginia and North Carolina could exist separated from the rest of America."[2] But he limited himself to
7. proposing that Virginia, "the greatest and most mighty state in the union,"[3] followed by North Caro-
9. lina and by New York, which state he announced as being in high opposition,[4] should hold the constitution in suspense until they had compelled the other states to adopt the amendments on which she should insist. He cited Jefferson as advising "to reject the
10. government till it should be amended."[5] Randolph interpreted the letter which Henry had cited as the expression of a strong desire that the government might be adopted by nine states, with Virginia for one
12. of the nine;[6] and Pendleton cited from the same let-

[1] Elliot, iii. 539, 546, 561.
[2] Elliot, iii. 161.
[3] Elliot, iii. 142.
[4] Elliot, iii. 157, 183.
[5] Elliot, iii. 152.
[6] Elliot, iii. 200.

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ter the words that "a schism in our union would be an incurable evil."[1]

1788. June 12.

"Under the royal government," said Mason, introducing a new theme, "the importation of slaves was looked upon as a great oppression; but the African merchants prevented the many attempts at its prohibition. It was one of the great causes of our separation from Great Britain. Its exclusion has been a principal object of this state and most of the states in this union. The augmentation of slaves weakens the states. Such a trade is diabolical in itself and disgraceful to mankind; yet by this constitution it is continued for twenty years.[2] Much as I value a union of all the states, I would not admit the southern states into the union unless they agree to its discontinuance. And there is no clause in this constitution to secure the property of that kind which we have acquired under our former laws, and of which the loss would bring ruin on a great many people;[3] for such a tax may be laid as will amount to manumission."[4]

Madison equally abhorred the slave-trade; but answered, with reserve: "The gentlemen of South Carolina and Georgia argued, 'By hindering us from importing this species of property the slaves of Virginia will rise in value, and we shall be obliged to go to your markets.' I need not expatiate on this subject; great as the evil is, a dismemberment of the union would be worse. Under the articles of confederation the traffic might be continued forever; by

[1] Elliot, iii. 304.
[2] Elliot, iii. 269.
[3] Elliot, iii. 270.
[4] Elliot, iii. 452.

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this clause an end may be put to it after twenty years. From the mode of representation and taxation, congress cannot lay such a tax on slaves as will amount to manumission. At present, if any slave elopes to any of those states where slaves are free, he becomes emancipated by their laws; in this constitution a clause was expressly inserted to enable owners of slaves to reclaim them."[1]

1788. June 17.

Tyler, an anti-federalist, spoke at large and with warmth: "This wicked traffic is impolitic, iniquitous, and disgraceful. It was one cause of the complaints against British tyranny; nothing can justify its revival. But for this temporary restriction, congress could have prohibited the African trade. My earnest desire is that it should be handed down to posterity, that I have opposed this wicked clause."[2]

24. Henry raised a new cry on the danger of emancipation: "The great object of national government is national defence; the northern states may call forth every national resource; and congress may say, 'Every black man must fight.' In the last war acts of assembly set free every slave who would go into the army. Slavery is detested; we feel its fatal effects; we deplore it with all the pity of humanity. Let that urbanity which I trust will distinguish Americans, and the necessity of national defence, operate on their minds; they have the power, in clear, unequivocal terms, to pronounce all slaves free, and they will certainly exercise the power. Much as I deplore slavery, I see that the general government ought not to set the slaves free; for the majority of con-

[1] Elliot, iii. 453.

[2] Elliot, iii. 454, 455.

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gress is to the North and the slaves are to the South."[1] CHAP. V.

The governor of Virginia first showed that the constitution itself did not, even in the opinion of South Carolina, menace enfranchisement; and thus proceeded: "I hope that there is no one here who, considering the subject in the calm light of philosophy, will advance an objection dishonorable to Virginia; that, at the moment they are securing the rights of their citizens, there is a spark of hope that those unfortunate men now held in bondage may, by the operation of the general government, be made free."[2] 1788. June 24.

The representative from Augusta county, Zachariah Johnson, complained that the bill of rights which the convention was preparing as an amendment to the constitution did not acknowledge that all men are by nature equally free and independent. "Gentlemen tell us," he said, "that they see a progressive danger of bringing about emancipation. The total abolition of slavery would do much good. The principle has begun since the revolution. Let us do what we may, it will come round."[3] 25.

To the declamations of Henry that the adoption of the constitution would be the renunciation of the right to navigate the Mississippi, Madison, after a candid relation of what had transpired in congress, and giving the information that New Jersey and Pennsylvania were now strenuous against even any temporary cession of the navigation of that river, made the further irrefragable reply: "The free navigation of 12.

[1] Elliot, iii. 590–593.
[2] Elliot, iii. 598, 599.
[3] Elliot, iii. 648.

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1788. June 12. the Mississippi is our right. The confederation is so weak that it has not formed, and cannot form, a treaty which will secure to us the actual enjoyment of it. Under an efficient government alone shall we be able to avail ourselves fully of our right. The new government will have more strength to enforce it."

13. "Should the constitution be adopted," said Monroe, "the northern states will not fail to relinquish the Mississippi in order to depress the western country and prevent the southern interest from preponderating."[1] "To preserve the balance of American power," continued Henry, "it is essentially necessary that the right of the Mississippi should be secured, or the South will ever be a contemptible minority."[2]

14. "This contest of the Mississippi," said Grayson, "is a contest for empire, in which Virginia, Kentucky, the southern states are deeply interested. It involves this great national question, whether one part of the continent shall govern the other. From the extent of territory and fertility of soil, God and nature have intended that the weight of population should be on the southern side. At present, for various reasons, it is on the other. If the Mississippi be shut up, emigrations will be stopped entirely; no new states will be formed on the western waters;[3] and this government will be a government of seven states."[4] To the last Grayson said: "The seven states, which are a majority, being actually in possession, will never admit any southern state into the union so as to lose that majority."[5]

23.

[1] Elliot, iii. 340.
[2] Elliot, iii. 352.
[3] Elliot, iii. 365.
[4] Elliot, iii. 365, 366.
[5] Elliot, iii. 585.

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1788. June 25.

The power of the government to establish a navigation act by a bare majority was bitterly complained of by George Mason;[1] by Grayson, who complained that the interests of the carrying states would govern the producing states;[2] by Tyler, who mourned over his own act in having proposed to cede the regulation of commerce to the confederation, since it had led to the grant of powers too dangerous to be trusted to any set of men whatsoever.[3] Complaint was further made that treaties were to go into effect without regard to the opinion of the house of representatives; and especially that there was no bill of rights, and that there was no explicit reservation of powers not delegated to the general government. In some parts of the country the settlers were made to dread a resuscitation of old land companies through the federal judiciary.

The prohibition on the states to issue paper money weighed on the minds of the debtor class; but it was not much discussed, for on that point George Mason and Richard Henry Lee were the great leaders in favor of the suppression of paper money "as founded upon fraud and knavery."[4] And Mason had forced the assembly of Virginia in their last session to adopt a series of resolutions declaring that paper currency created scarcity of real money, and substituted for the real standard of value a standard variable as the commodities themselves, ruining trade and commerce, weakening the morals of the people, destroying public and private credit and all faith between man and man, and aggravating the very evils which it was in-

[1] Elliot, iii. 604.
[2] Elliot, iii. 616.
[3] Elliot, iii. 640.
[4] Geo. Mason to Washington, 6 Nov., 1787, in Letters to G. W., iv. 190.

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tended to remedy.[1] And yet there were those in the convention whose votes were swayed by the consideration that, if the constitution should be established, there would be an end of inconvertible bills of credit forever. But that which affected the decision more than anything else was that the constitution would bring with it to British creditors a right to recover through the federal courts claims on Virginia planters for about ten millions of dollars.

The discussions had been temperately conducted till just at the last, when for a moment pretending that the acceptance of the constitution would make an end of the trial by jury, Henry said: "Old as I am, it is probable I may yet have the appellation of rebel. But my neighbors will protect me."[2] This daring drew out the reply that Virginia would be in arms to support the constitution; and James Innes, of Williamsburg, quoting against him his own words, said: "I observe with regret a general spirit of jealousy with respect to our northern brethren. If we had had it in 1775 it would have prevented that unanimous resistance which triumphed over our enemies; it was not a Virginian, a Carolinian, a Pennsylvanian, but the glorious name of an American, that extended from one end of the continent to the other."[3] But the feeling was soon pacified, and the last words of Henry himself were: "If I shall be in the minority, I shall yet be a peaceable citizen, my head, my hand, and my heart being at liberty to remove the defects of the system in a constitutional way."[4] The

[1] Independent Gazetteer, 17 Nov., 1787.
[2] Elliot, iii. 546.
[3] Elliot, iii. 633.
[4] Elliot, iii. 652.

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last word was from the governor of Virginia: "The accession of eight states reduces our deliberations to the single question of union or no union."[1]

For more than three weeks the foes of the constitution had kept up the onset, and day after day they had been beaten back as cavalry that tries in vain to break the ranks of infantry. For more than three weeks Henry and Grayson and Mason renewed the onslaught, feebly supported by Monroe, and greatly aided by the weight of character of Benjamin Harrison and John Tyler; day by day they were triumphantly encountered by Madison, on whom the defence of the constitution mainly rested; by Pendleton, who, in spite of the infirmities of his later age, was moved even more deeply than in the beginning of the revolution; and by the popular eloquence of Randolph. These three champions were well seconded by George Nicholas, John Marshall, James Innes, Henry Lee, and Francis Corbin.[2]

On the twenty-fifth, after debates for three weeks, the malcontents had no heart for further resistance. The convention was willing to recommend a bill of rights in twenty sections, with twenty other more questionable amendments. The first motion was: "Ought the declaration of rights and amendments of the constitution to be referred by this convention to the other states in the American confederacy for their consideration previous to the ratification of the new constitution of government?" It was lost, having only eighty voices against eighty-eight. Then the main question was put, that the constitution be rati-

[1] Elliot, iii. 652.

[2] Compare Rives, ii. 561.

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fied, referring all amendments to the first congress under the constitution. The decision would be momentous, not for America only, but the whole world. Without Virginia, this great country would have been shivered into fragmentary confederacies, or separate independent states.

The roll was called; and from the cities of Richmond and Williamsburg, from counties near the ocean, from the northern neck, from the northwestern border counties, and from the counties between the Blue Ridge and the Alleghanies, eighty-nine delegates voted for the constitution. From other central and southern border counties, and from three fourths of the counties of Kentucky, seventy-nine cried No.

The committee for reporting the form of ratification were Randolph, Nicholas, Madison, Marshall, and Corbin, all from among the stanchest supporters of the constitution.

In the form which was adopted they connected with the ratification "a few declaratory truths not affecting the validity of the act;"[1] and shielded the rights of the states by the assertion "that every power not granted by the constitution remains for the people of the United States and at their will."[2]

After the vote was taken, the successful party were careful not to ruffle their opponents by exultation. Henry showed his genial nature, free from all malignity. He was like a billow of the ocean on the first bright day after the storm, dashing itself against the rocky cliff, and then, sparkling with light, retreating

[1] Madison to Washington, in Rives, ii. 608.

[2] Elliot, iii. 656.

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to its home. It was more difficult for Mason to calm the morbid sensibility of his nature and to heal his sorrow at having abandoned one of the highest places of honor among the fathers of the constitution which he had done so much to initiate, to form, and to improve. He was pacified by words from Harrison and from Tyler, who held it the duty of good citizens to accept the decision of the majority, and by precept and example to promote harmony and order and union among their fellow-citizens. But that which did most to soothe the minority was their trust in Washington. "For the president," said Mason, "there seldom or never can be a majority in favor of one, except one great name, who will be unanimously elected."[1] "Were it not for one great character in America," said Grayson, "so many men would not be for this government. We do not fear while he lives; but who beside him can concentrate the confidence and affections of all America?"[2] And Monroe reported to Jefferson: "Be assured, Washington's influence carried this government."[3]

Nor was that influence confined to Virginia alone. The country was an instrument with thirteen strings, and the only master who could bring out all their harmonious thought was Washington. Had he not attended the federal convention, its work would have met a colder reception and more strenuous opponents. Had the idea prevailed that he would not accept the presidency, it would still have proved fatal.[4]

[1] Elliot, iii. 493; and compare 134.
[2] Elliot, iii. 616.
[3] Monroe to Jefferson, 12 July, 1788. MS.
[4] Gouverneur Morris to Washington, 30 Oct., 1787, in Life of Morris by Sparks, i. 289, 290.

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1788. June 25. Virginia lost the opportunity of being the ninth state to constitute the union. While the long winter of New Hampshire intercepted the labors of husbandry, the fireside of the freeholders in its hundreds of townships became the scene for discussing the merits of the federal constitution with the delegates of their choice and with one another. Their convention reassembled in June. Four days served them to discuss the constitution, to prepare and recommend twelve articles of amendment, and, by fifty-seven

21. voices against forty-six, to ratify the constitution. They took care to insert in their record that their vote was taken on Saturday, the twenty-first of June, at one o'clock in the afternoon, that Virginia by a vote at a later hour of the same day might not dispute with them the honor of giving life to the constitution.[1]

By their decision, accompanied by that of Virginia, the United States of America came formally into existence. As the glad tidings flew through the land, the heart of its people thrilled with joy that at last the tree of union was firmly planted. Never may its trunk be riven by the lightning; nor its branches crash each other in the maddening storm; nor its beauty wither; nor its root decay.

[1] Tobias Lear to Washington, 22 June, 1788. Letters to Washington, iv. 225.

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BOOK V.

THE FEDERAL GOVERNMENT.

JUNE, 1787.

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CHAPTER I.

THE CONSTITUTION.

1787.

"The American constitution is the most wonderful work ever struck off at a given time by the brain and purpose of man;" but it had its forerunners.

England had suffered the thirteen colonies, as free states, to make laws each for itself and never for one of the others; and had established their union in a tempered subordination to the British crown. Among the many guides of America, there had been Winthrop and Cotton, Hooker and Haynes, George Fox and William Penn, Roger Williams and John Clarke; scholars of Oxford and many more of Cambridge; Gustavus Adolphus and Oxenstiern; the merchants of the United Netherlands; Southampton and Baltimore, with the kindliest influences of the British aristocracy; Shaftesbury with Locke, for evil as well as for good; all the great slave-traders that sat on thrones or were fostered by parliament; and the philanthropist Oglethorpe, who founded a colony exclusively of the free on a territory twice as large

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as France, and though he had to mourn at the overthrow of his plans for liberty, lived to see his plantation independent.

There were other precursors of the federal government; but the men who framed it followed the lead of no theoretical writer of their own or preceding times. They harbored no desire of revolution, no craving after untried experiments. They wrought from the elements which were at hand, and shaped them to meet the new exigencies which had arisen. The least possible reference was made by them to abstract doctrines; they moulded their design by a creative power of their own, but nothing was introduced that did not already exist, or was not a natural development of a well-known principle. The materials for building the American constitution were the gifts of the ages.

Of old, the family was the rudiment of the state. Of the Jews, the organization was by tribes. The citizens of the commonwealths of the Hellenes were of one blood. Among the barbarous tribes of the fourth continent, the governments and the confederacies all rested on consanguinity. Nations, as the word implied, were but large communities of men of one kin; and nationalities survive to this day, a source of strength in their unity, and yet of strife, where they exist in their original separateness and are nevertheless held in subjection under one ruler. Rome first learned to cherish the human race by a common name and transform the vanquished into citizens.

The process of assimilation which Rome initiated by war, received its perfect development in the land

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where the Dutch and the Swedes, and in the country northwest of the Ohio the French, competed in planting colonies; where the English, the Irish, the Scotch for the most part came over each for himself, never reproducing their original nationality; and where, from the first, fugitives from persecution of all nations found a safe asylum. Though subjects of the English king, all were present in America as individuals. 1787.

The English language maintained itself without a rival, not merely because those speaking it as their mother tongue very greatly outnumbered all others, and because all acknowledged English supremacy; but for the simplicity of its structure; its logical order in the presentment of thought; its suitableness for the purposes of every-day life; for the discussion of abstract truths and the apprehension of Anglo-Saxon political ideas; for use as the instrument of the common law; for science and description; for the debates of public life; for every kind of poetry, from humor to pathos, from nature to the heart and mind.

But the distinctive character of the new people as a whole, their nationality, so to say, was the principle of individuality which prevailed among them as it had nowhere done before. This individuality was strengthened by the struggles with Nature in her wildness, by the remoteness from the abodes of ancient institutions, by the war against the traditions of absolute power and old superstitions, till it developed itself into the most perfect liberty in thought and action; so that the American came to be marked

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CHAP. I. 1787. by the readiest versatility, the spirit of enterprise, and the faculty of invention. In the declaration of independence the representatives of the United States called themselves "the good people of these colonies." The statesmen who drew the law of citizenship in 1776 made no distinction of nationalities, or tribes, or ranks, or occupations, or faith, or wealth, and knew only inhabitants bearing allegiance to the governments of the several states in union.

Again, this character of the people appeared most clearly in the joint action of the United States in the federal convention, where the variant prejudices that still clung to separate states eliminated each other.

The constitution establishes nothing that interferes with equality and individuality. It knows nothing of differences by descent, or opinions, of favored classes, or legalized religion, or the political power of property. It leaves the individual alongside of the individual. No nationality of character could take form, except on the principle of individuality, so that the mind might be free, and every faculty have the unlimited opportunity for its development and culture. As the sea is made up of drops, American society is composed of separate, free, and constantly moving atoms, ever in reciprocal action, advancing, receding, crossing, struggling against each other and with each other; so that the institutions and laws of the country rise out of the masses of individual thought, which, like the waters of the ocean, are rolling evermore.

The rule of individuality was extended as never before. The synod of the Presbyterians of New

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York and Philadelphia, a denomination inflexibly devoted to its own creed, in their pastoral letter of May, 1783, published their joy that "the rights of conscience are inalienably secured and interwoven with the very constitutions of the several states." Religion was become avowedly the attribute of man and not of a corporation. In the earliest states known to history, government and religion were one and indivisible. Each state had its special deity, and of these protectors one after another might be overthrown in battle, never to rise again. The Peloponnesian war grew out of a strife about an oracle. Rome, as it sometimes adopted into citizenship those whom it vanquished, introduced in like manner, and with good logic for that day, the worship of their gods. No one thought of vindicating religion for the conscience of the individual till a voice in Judea, breaking day for the greatest epoch in the life of humanity by establishing a pure, spiritual, and universal religion for all mankind, enjoined to render to Cæsar only that which is Cæsar's. The rule was upheld during the infancy of the gospel for all men. No sooner was this religion adopted by the chief of the Roman Empire, than it was shorn of its character of universality and enthralled by an unholy connection with the unholy state; and so it continued till the new nation—the least defiled with the barren scoffings of the eighteenth century, the most general believer in Christianity of any people of that age, the chief heir of the reformation in its purest form—when it came to establish a government for the United States, refused to treat faith as a matter to be regu-

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lated by a corporate body, or having a headship in a monarch or a state.

Vindicating the right of individuality even in religion, and in religion above all, the new nation dared to set the example of accepting in its relations to God the principle first divinely ordained in Judea. It left the management of temporal things to the temporal power; but the American constitution, in harmony with the people of the several states, withheld from the federal government the power to invade the home of reason, the citadel of conscience, the sanctuary of the soul; and not from indifference, but that the infinite spirit of eternal truth might move in its freedom and purity and power.

With this perfect individuality extending to conscience, freedom should have belonged to labor. What though slavery existed and still exists in the older states known to history, in Egypt, in China, coming down continuously from an unknown date; what though Aristotle knew no mode of instituting a republican household but with a slave; and Julius Cæsar, when Italy was perishing by the vastness of its slave estates, crowded them with new hordes of captives? What though the slave-trade was greedily continued under the passionate encouragement of the British parliament, and that in nearly all of the continent of Europe slavery in some of its forms prevailed? In America, freedom of labor was the moral principle of the majority of the people; was established, or moving toward immediate establishment, in a majority of the states; was by the old confederation, with the promptest and oft-repeated sanction of

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the new government, irrevocably ordained in all the territory for which the United States could at that time make the law. The federal convention could not interfere with the slave laws of the separate states; but it was careful to impose no new incapacitation on free persons of color; it maintained them in all the rights of equal citizenship; it granted those rights to the emancipated slave; and it kept to itself the authority to abolish the slave-trade instantly in any territory that might be annexed; in all other states and lands, at the earliest moment for which it had been able to obtain power. 1787.

The tripartite division of government into legislative, executive, and judicial, enforced in theory by the illustrious Montesquieu, and practiced in the home government of every one of the American states, became a part of the constitution of the United States, which derived their mode of instituting it from their own happy experience. It was established by the federal convention with a rigid consistency that went beyond the example of Britain, where one branch of the legislature still remains a court of appeal. Each one of the three departments proceeded from the people, and each is endowed with all the authority needed for its just activity. The president may recommend or dissuade from enactments, and has a limited veto on them; but whatever becomes a law he must execute. The power of the legislature to enact is likewise uncontrolled except by the paramount law of the constitution. The judiciary passes upon every case that may be presented, and its decision on the case is definitive; but with-

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out further authority over the executive or the legislature, for the convention had wisely refused to make the judges a council to either of them.

Tripartite division takes place not only in the threefold powers of government; it is established as the mode of legislation. There, too, three powers, proceeding from the people, must concur, except in cases provided for, before an act of legislation can take place. This tripartite division in the power of legislation—so at the time wrote Madison, so thought all the great builders of the constitution, so asserted John Adams with vehemence and sound reasoning—is absolutely essential to the success of a federal republic; for if all legislative powers are vested in one man or in one assembly, there is despotism; if in two branches, there is a restless antagonism between the two; if they are distributed among three, it will be hard to unite two of them in a fatal strife with the third. But the executive, and each of the two chambers, must be so chosen as to have a character and strength and popular support of its own. The government of the United States is thoroughly a government of the people. By the English aristocratic revolution of 1688, made after the failure of the popular attempt at reform, the majority of the house of commons was in substance composed of nominees of the house of lords, so that no ministry could prevail in it except by the power of that house; and as the prime minister and cabinet depend on the majority in the house of commons, the house of lords directly controlled the government not only in its own branch but in the commons, and through the commons in

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the nomination of the ministry. All three branches of the government were in harmony, for all three branches represented the aristocracy.[1] In the United States, on the other hand, all the branches of power —president, senators, and representatives—proceed directly or indirectly from the people. The government of the United States is a government by the people, for the people. 1787.

To perfect the system and forever prevent revolution, power is reserved to the people by amendments of their constitution to remove every imperfection which time may lay bare, and adapt it to unforeseen contingencies. But no change can be hastily made. An act of parliament can at any time alter the constitution of England; no similar power is delegated to the congress of the United States, which, like parliament, may be swayed by the shifting majorities of party. As to the initiation of amendments, it could not be entrusted to the president, lest it might lead him to initiate changes for his own advantage; still less to a judiciary holding office for life, for, such is human nature, a tribunal so constituted and deciding by a majority, by whatever political party its members may have been named, cannot safely be invested with so transcendent a power. The legislatures of the states or of the United States are alone allowed to open the "constitutional door to amendments;" and these can be made valid only through the combined intervention of the state legislatures and of congress, or a convention of all the states

[1] The period to which this refers must be kept in mind; the British constitution is very different now after the various reforms in the mode of electing the house of commons.

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CHAP. I. 1787. elected expressly for the purpose by the people of the several states. In this way no change of the constitution can be made in haste or by stealth, but only by the consent of three quarters of the states after a full and free and often-repeated discussion. There is no legal road to amendment of the constitution but through the consent of the people given in the form prescribed by law. America, being charged with the preservation of liberty, has the most conservative polity in the world, both in its government and in its people.

The new nation asserted itself as a continental republic. The discovery was made that the time had passed for little commonwealths with a single city and its environs. The great Frederick, who had scoffed at the idea of attempting to govern an imperial domain without a king, was hardly in his grave when a commonwealth of more than twenty degrees in each direction, containing from the first an area six or seven times as large as the whole of Great Britain and Ireland, fifty or sixty times as great as the Netherlands or Switzerland, able to include more than a thousand confederacies as large as the Achaian, and ready to admit adjoining lands to fellowship, rose up in the best part of the temperate zone on a soil that had been collecting fertility for untold centuries. The day of the Greek commonwealth had passed forever; and, after the establishment of the representative system, it was made known that a republican government thrives best in a vast territory. Monarchy had held itself a necessity for the formation of large states; but now it was found out that monarchy ca'

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be dispensed with; and the world was summoned to gaze at the spectacle of a boundless society of republican states in union.

The United States of America are not only a republic, they are "a society of societies," "a federal republic."[1] Toward foreign powers the country has no seam in its garment; it exists in absolute unity as a nation, with full and undisputed national resources. At home it is "a union," or "one out of many;" but still, within its own sphere, is supreme and self-supporting. For this end it has its own legislature to make enactments; its own functionaries to execute them; its own courts; its own treasury; and it alone may have an army and a navy. All-sufficient powers are so plainly given that there is no need of striving for more by straining the words in which they are granted beyond their plain and natural import.

The constitution, the laws of the United States made in pursuance of it, and all treaties framed by their authority, are the supreme law of the land, binding the judges in every state even if need be in spite of the constitution and the laws of the state; and all executive, legislative, and judicial officers, both of the United States and of the several states, are to be sworn to its support. The constitution provides within itself for the redress of every wrong. The supreme court offers relief in a "case" of injustice or conflict with the constitution; the remedy for a bad law is to be sought through the freedom and frequency of elections; a fault in the fundamental law through an amendment.

[1] Words used by Montesquieu, Esprit des Lois, livre ix., ch. i.

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CHAP. I

1787. Aside from the sphere of the federal government, each state is in all things supreme, not by grace, but of right. The United States may not interfere with any ordinance or law that begins and ends within a state. This supremacy of the states in the powers which have not been granted is as essentially a part of the system as the supremacy of the general government in its sphere. The states are at once the guardians of the domestic security and the happiness of the individual, and they are the parents, the protectors, and the stay of the union. The states and the United States are members of one great whole; and the one is as needful as the other. The powers of government are not divided between them; they are distributed; so that there need be no collision in their exercise. The union without self-existent states is a harp without strings; the states without union are as chords that are unstrung. But for state rights the union would perish from the paralysis of its limbs. The states, as they gave life to the union, are necessary to the continuance of that life. Within their own limits they are the guardians of industry, of property, of personal rights, and of liberty. But state rights are to be defended inside of the union; not from an outside citadel from which the union may be struck at or defied. The states and the United States are not antagonists; the states in union form the federal republic; and the system can have life and health and strength and beauty only by their harmonious action. In short, the constitution knows nothing of United States alone, or states alone; it adjusts the parts harmoniously in an organized unity.

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Impair the relations or the vigor of any part, and disease enters into the veins of the whole. That there may be life in the whole, there must be healthy life in every part. The United States are the states in union; these are so inwrought into the constitution that the one cannot perish without the other. 1787.

Is it asked who is the sovereign of the United States? The words "sovereign" and "subjects" are unknown to the constitution. There is no place for princes with unlimited power, or conquering cities, or feudal chiefs, or privileged aristocracies, ruling absolutely with their correlative vassals or subjects.

The people of the United States have declared in their constitution that the law alone is supreme; and have defined that supreme law. Is it asked who are the people of the United States that instituted the "general government"? The federal convention and the constitution answer, that it is the concurring people of the several states. The constitution is constantly on its guard against permitting the action of the aggregate mass as a unit, lest the whole people, once accustomed to acting together as an individual, might forget the existence of the states, and the states now in union succumb to centralization and absolutism. The people of the states demanded a federal convention to form the constitution; the congress of the confederation, voting by states, authorized that federal convention; the federal convention, voting likewise by states, made the constitution; at the advice of the federal convention the federal congress referred that constitution severally to the people of each state; and by their united voice taken

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CHAP. I. 1787.

severally it was made the binding form of government. The constitution, as it owes its life to the concurrent act of the people of the several states, permits no method of amending itself except by the several consent of the people of the states; and within the constitution itself, the president, the only officer who has an equal relation to every state in the union, is elected not by the aggregate people of all the states, but by the people of the several states according to the number of votes allotted to each of them.

Finally, there is one more great and happy feature in the constitution. Rome, in annexing the cities around itself, had not given them equal influence with itself in proportion to their wealth and numbers, and consequently there remained a cause of dissatisfaction never healed. America has provided for admission of new states upon equal terms with the old ones.

For Europe, there remained the sad necessity of revolution. For America, the gates of revolution are shut and barred and bolted down, never again to be thrown open; for it has found a legal and a peaceful way to introduce every amelioration. Peace and intercitizenship and perfect domestic free trade are to know no end. The constitution is to the American people a possession for all ages; it creates an indissoluble union of imperishable states.

The federal republic will carry tranquillity, and freedom, and order throughout its vast domain. Will it, within less than a century, extend its limits to the capes of Florida, to the mouth of the Mississippi, to the region beyond the Mississippi, to California, to

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Oregon, to San Juan? Will it show all the Spanish colonies how to transform themselves into independent republics stretching along the Pacific till they turn Cape Horn? Will it be an example to France, teaching its great benefactor how to gain free institutions? Will it assist the liberal statesmen of the country from which it broke away to bring parliament more nearly to a representation of the people? Will it assist the birthplace of the reformation to gather together its scattered members and become once more an empire, with a government so entirely the child of the nation that it shall have but one hereditary functionary, with a federal council or senate representing the several states, and a house elected directly by universal suffrage? Will it teach England herself how to give peace to her groups of colonies, her greatest achievement, by establishing for them a federal republican dominion, in one continent at least if not in more? And will America send manumitted dark men home to their native continent, to introduce there an independent republic and missions that may help to civilize the races of Africa?

1787.

The philosophy of the people of the United States was neither that of optimism nor of despair. Believing in the justice of "the Great Governor of the world," and conscious of their own honest zeal in the cause of freedom and mankind, they looked with astonishment at their present success and at the future with unclouded hope.

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CHAPTER II.

THE LINGERING STATES.

1787–1789.

CHAP. II. 1787.

WHEN the constitution was referred to the states Hamilton revived a long cherished plan, and, obtaining the aid of Jay and Madison, issued papers which he called The Federalist, to prepare all the states and the people for accepting the determinations of the federal convention. Of its eighty-five numbers, Jay wrote five, Madison twenty-nine, and Hamilton fifty-one.[1] They form a work of enduring interest,

[1] Mr. Madison's list of the authors of The Federalist:

Number 1 by A. H.		No. 2, J. J.
No. 3, J. J.	No. 4, J. J.	No. 5, J. J.
No. 6, A. H.	No. 7, A. H.	No. 8, A. H.
No. 9, A. H.	No. 10, J. M.	No. 11, A. H.
No. 12, A. H.	No. 13, A. H.	No. 14, J. M.
No. 15, A. H.	No. 16, A. H.	No. 17, A. H.
No. 18, J. M.	No. 19, J. M.	No. 20, J. M.
No. 21, A. H.	No. 22, A. H.	No. 23, A. H.
No. 24, A. H.	No. 25, A. H.	No. 26, A. H.
No. 27, A. H.	No. 28, A. H.	No. 29, A. H.
No. 30, A. H.	No. 31, A. H.	No. 32, A. H.
No. 33, A. H.	No. 34, A. H.	No. 35, A. H.
No. 36, A. H.	No. 37, J. M.	No. 38, J. M.
No. 39, J. M.	No. 40, J. M.	No. 41, J. M.
No. 42, J. M.	No. 43, J. M.	No. 44, J. M.
No. 45, J. M.	No. 46, J. M.	No. 47, J. M.
No. 48, J. M.	No. 49, J. M.	No. 50, J. M.
No. 51, J. M.	No. 52, J. M.	No. 53, J. M.
No. 54, J. M.	No. 55, J. M.	No. 56, J. M.
No. 57, J. M.	No. 58, J. M.	No. 59, A. H.
No. 60, A. H.	No. 61, A. H.	No. 62, J. M.
No. 63, J. M.	No. 64, J. J.	No. 65, A. H.
No. 66, A. H.	No. 67, A. H.	No. 68, A. H.
No. 69, A. H.	No. 70, A. H.	No. 71, A. H.
No. 72, A. H.	No. 73, A. H.	No. 74, A. H.
No. 75, A. H.	No. 76, A. H.	No. 77, A. H.
No. 78, A. H.	No. 79, A. H.	No. 80, A. H., and to the end.

Note in Mr. Madison's own hand.

"No. 18 is attributed to Mr. Hamilton and Mr. Madison jointly. A. H. had drawn up something on the subjects of this (No. 18) and

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because they are the earliest commentary on the new experiment of mankind in establishing a republican government for a country of boundless dimensions; and were written by Madison, who was the chief author of the constitution, and Hamilton, who took part in its inception and progress. CHAP. II. 1787.

Hamilton dwelt on the defects of the confederation; the praiseworthy energy of the new federal government; its relations to the public defence; to the functions of the executive; to the judicial department; to the treasury; and to commerce. Himself a friend to the protection of manufactures, he condemned "exorbitant duties on imported articles," 1788. Jan. 8.

the two next Nos. (19 and 20). On finding that J. M. was engaged in them with larger materials, and with a view to a more precise delineation, he put what he had written into the hands of J. M. It is possible, though not recollected, that something in the draught may have been incorporated into the numbers as printed. But it was certainly not of a nature or amount to affect the impression left on the mind of J. M., from whose pen the papers went to the press, that they were of the class written by him. As the historical materials of A. H., as far as they went, were doubtless similar, or the same with those provided by J. M., and as a like application of them probably occurred to both, an impression might be left on the mind of A. H. that the Nos. in question were written jointly. These remarks are made as well to account for a statement to that effect, if made by A. H., as in justice to J. M., who, always regarding them in a different light, had so stated them to an enquiring friend, long before it was known or supposed that a different impression existed anywhere.

(Signed) J. M."

There exists no list of the authors of The Federalist by the hand of Hamilton. There exists no authentic copy of any list that may have been made by Hamilton. It is a great wrong to Hamilton's memory to insist that he claimed the authorship of papers which were written for him at his request by another, and which the completest evidence proves that he could not have written. The list of the authors of the several papers given above rests on the written authority of Madison. From this list Madison has never been known to vary in the slightest degree. The correctness of his statement is substantiated beyond room for a cavil by various evidence. Meeting an assertion that Madison in some paper in the department of state had changed one figure in his list, I requested a former secretary of state to order a search to be made for it. A search was made, and no such paper was found.

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CHAP. II. 1788. Jan. 8.

because they "beget smuggling," are "always prejudicial to the fair trader, and eventually to the revenue itself;" tend to render "other classes of the community tributary in an improper degree to the manufacturing classes," to "give them a premature monopoly of the markets;" to "force industry out of its most natural channels," and to "oppress the merchant."[1]

Madison commented with severe wisdom on its plan; its conformity to republican principles; its powers; its relation to slavery and the slave-trade; its mediating office between the union and the states; its tripartite separation of the departments; and its mode of constructing the house of representatives. Hamilton began the work by saying that a wrong decision would not only be "the dismemberment of the union," but "the general misfortune of mankind;"[2] he closed with the words: "A nation without a national government is an awful spectacle. The establishment of a constitution, in time of profound peace, by the voluntary consent of a whole people, is a prodigy, to the completion of which I look forward with trembling anxiety."[3] During the time in which the constitution was in jeopardy Hamilton and Madison cherished for each other intimate and affectionate relations, differing in temperament, but one in purpose and in action. To the day of their death they both were loyally devoted to the cause of union.

New York, having the most convenient harbor for world-wide commerce, rivers flowing directly to the

[1] The Federalist, xxxv.
[2] The Federalist, i.
[3] The Federalist, lxxxv.

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sea, to Delaware bay, to the Chesapeake, to the Mississippi, and to the watercourse of the St. Lawrence, and having the easiest line of communication from the ocean to the great West, needed, more than any other state, an efficient government; and yet of the thirteen it was the most stubborn in opposition. More than half the goods consumed in Connecticut, in New Jersey, in Vermont, and the western parts of Massachusetts, were bought within its limits and paid an impost for its use.[1] During the war it agreed to give congress power to collect a five per cent impost; as soon as it regained possession of the city it preferred to appropriate the revenue to its own purposes; and as a consequence, the constitution called forth in New York the fiercest resistance that selfish interests could organize. 1788.

To meet the influence of The Federalist, the republicans published inflammatory tracts, and circulated large editions of the Letters from the Federal Farmer by Richard Henry Lee. They named themselves federal republicans. Their electioneering centre was the New York custom-house, then an institution of the state with John Lamb as collector. After the fashion of the days of danger they formed a committee of correspondence and sought connections throughout the land. They sent their own emissaries to attend the proceedings of the Massachusetts convention, and, if possible, to frustrate its acceptance of the union. Their letters received answers from Lowndes, from Henry and Grayson, from Atherton of New Hampshire, and from Richard Henry Lee who told

[1] Williamson to Iredell, 7 July, 1788. McRee's Iredell, ii. 227, 228.

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CHAP. II.

them that "the constitution was an elective despotism."

1788. Jan.

At the regular meeting of the legislature in January, 1788, Clinton recommended the encouragement of commerce and of manufactures, but sent in the proceedings of the federal convention without remark.[1] All others remaining silent for twenty days, Egbert

31.

Benson, on the last day of January, proposed a state convention in the precise mode recommended by congress. Schoonmaker offered a preamble, condemning the federal convention for having exceeded its powers. Benson conducted the debate with rare ability, and the amended preamble gained but twenty-five votes against twenty-seven. In the senate the motion to postpone the question mustered but nine votes against ten. The convention was ordered; but in its choice the constitutional qualifications of electors were thrust aside, and every free male citizen of twenty-one years of age, though he had been a resident but for a day, might be a voter and be voted for.

According to the wish of the Virginia opposition the time for the meeting of the convention was delayed till the seventeenth of June. Of its sixty-five members more than two thirds were enemies to the constitution.[2] But it was found that the state was divided geographically. The seat of opposition was in Ulster county, the home of Governor Clinton, and it extended to the counties above it. The southern counties on the Hudson river and on Long Island, and the city of New York, were so unanimously for union as to encourage the rumor that they would at

[1] Ind. Gazetteer, 19 Jan., 1788. [2] Hamilton, i. 454.

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all events adhere to it. Clinton himself began to think it absolutely necessary that the state should in some form secure a representation under the new constitution.[1] 1788.

The greater number of his friends were, like him, averse to its total rejection; but, while some were willing to be content with recommendatory amendments, and others with explanatory ones, to settle doubtful constructions, the majority seemed unwilling to be reconciled with less than previous amendments. All the while the people of the state were drifting toward union.[2]

Fifteen days after the organization of the Virginia convention that of New York met at Poughkeepsie and unanimously elected Clinton as its president. Among the delegates of the city of New York were Jay, Chief-Justice Morris, Hobart, Livingston then chancellor of the state, Duane, and Hamilton. On the other side the foremost men were George Clinton, the governor; Yates and Lansing, who had deserted the federal convention under the pretence that it was exceeding its power; Samuel Jones, a member of the New York bar, who excelled in clearness of intellect, moderation, and simplicity of character;[3] and Melancthon Smith, a man of a religious cast of mind, familiar with metaphysical discussions, of undaunted courage, and gifted with the power of moderation.[4] June 17.

On the nineteenth the chancellor opened the debate, 19.

[1] Cyrus Griffin, President of the Continental Congress, to Thomas Fitzsimons, 16 June, 1788. MS.

[2] Compare Jay's Jay, i. 268.

[3] Thompson's Long Island, ii. 504, 505.

[4] Thompson's Long Island, ii. 495.

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CHAP. II. showing the superiority of a republic to a confederacy; without a strong federal government and union New
1788. June 19. York was incapable of self-defence, and the British posts within the limits of the state would continue to form connections with hostile tribes of Indians, and be held in defiance of the most solemn treaties.[1]

In the course of the discussion every objection that had been made to the constitution either in Massachusetts or in Virginia was strongly stated; and re-
20. plied to. Lansing, adhering to the system of the confederation, loved union; but loved liberty more.[2] Melancthon Smith declared himself most strongly impressed with the necessity of union, and refused to say that the federal constitution was at war with public liberty. Hamilton, speaking in the spirit of gentleness and wisdom, contrasted the method of requisitions to be enforced by coercion of the states, with general laws operating directly on individuals; and he showed how greatly the new system excelled in simplicity, in efficiency, in respect for personal rights, in the protection of the public liberty, and, above all, in humanity.

24. On the twenty-fourth swift riders, despatched by Langdon, brought to Hamilton the tidings that New Hampshire as the ninth state had assented to the constitution; yet the vote did not decide New York. "Our chance of success depends upon you," wrote Hamilton to Madison. "Symptoms of relaxation in some of the leaders authorize a gleam of hope if you do well, but certainly I think not otherwise."[3]

[1] Elliot, ii. 208–210.
[2] Elliot, ii. 219.
[3] Hamilton's Works, i. 462.

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CHAP. II.

Clinton claimed that he and his own partisans were "the friends to the rights of mankind;" their opponents "the advocates of despotism;" "the most that had been said by the new government men had been but a second edition of The Federalist well delivered. One of the New York delegates," meaning Hamilton, "had in substance, though not explicitly, thrown off the mask, his arguments tending to show the necessity of a consolidated continental government to the exclusion of any state government." 1788. June 24.

On the twenty-seventh Hamilton replied by a full declaration of his opinions. "The establishment of a republican government on a safe and solid basis is the wish of every honest man in the United States, and is an object, of all others, the nearest and most dear to my own heart. This great purpose requires strength and stability in the organization of the government, and vigor in its operations. The state governments are essentially necessary to the form and spirit of the general system.[1] With the representative system a very extensive country may be governed by a confederacy of states in which the supreme legislature has only general powers, and the civil and domestic concerns of the people are regulated by the laws of the several states. State governments must form a leading principle. They can never lose their powers till the whole people of America are robbed of their liberties."[2] 27.

In answer to Hamilton on this and two other occasions, Clinton carefully set forth the principles on June-July.

[1] Elliot, ii. 301, 304. For Hamilton's brief of his speeches in June [not of those in July], see Hamilton, ii. 463–466.

[2] Elliot, ii. 352–355.

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CHAP. II. 1788. June–July.

which he reposed. During the war he had wished for a strong federal government; he still wished a federal republic for the mutual protection of the states and the security of their equal rights. In such a confederacy there should be a perfect representation; but of that representation "the states are the creative principle," and, having equal rights, ought for their protection to be equally represented. The delegates and the senators of a state should be subject to its instructions and liable to be recalled at its pleasure, for the representation should be an exact and continuous representation of its reflection and judgment and will. Moreover, the senators should vote in their place not as individuals, but collectively, as the representation of the state. He would further have the members of congress depend on the states for support. Above all he abhorred the idea of reducing the states to the degraded situation of petty corporations and rendering them liable to suits. "The sovereignty of the states he considered the only stable security for the liberties of the people against the encroachments of power."[1]

July 8.

On the third of July, while the convention was still engaged in considering the constitution, and noting the propositions of amendments, the decisive news of the unconditional ratification of the constitution by Virginia broke on its members; and from that moment it was certain that they would not venture to stand alone against the judgment of every state in New England except Rhode Island, and every other state

[1] This summary of three speeches made by Clinton, one in June, two in July, after Virginia was heard from, is compiled from the manuscripts of Clinton preserved in the state library at Albany.

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except North Carolina. The question at first became whether the constitution should be accepted with or without previous amendments. On the tenth Lansing offered a bill of rights, to which no one objected; and numerous amendments,[1] of which the class relating to a standing army in time of peace, direct taxes, the militia, and elections to congress were made conditions of the ratification. After they were read, the convention, on the proposal of Lansing, adjourned, leaving an informal committee of equal numbers of both parties to bring the business by compromise to a quick and friendly decision. In the committee Jay declared that the word "conditional" must be erased before any discussion of the merits of the amendments. As this point was refused, the committee was dissolved; but already Melancthon Smith and Samuel Jones showed signs of relenting.

CHAP. II.

1788. July 10.

On the eleventh Jay, taking the lead, moved the ratification of the constitution and the recommendation of amendments. After a long debate, Melancthon Smith interposed with a resolution which meant in substance that New York would join the union, reserving the right to recede from it if the desired amendments should not be accepted. Against this motion Hamilton, after vainly proposing a form of ratification[2] nearly similar to that of Virginia, spoke on Saturday, the nineteenth, with such prevailing force, that Smith confessed himself persuaded to relinquish it. At this Lansing revived the proposition to enter the union, but only with a reserved right

11.

19.

[1] Penn. Packet, 18 July, 1788; Ind. Gazetteer, 18 July, 1788.

[2] Hamilton, ii, 467–471.

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CHAP. II.

to withdraw from it; and on the following Monday the question might be taken.[1] Meantime Madison having resumed his place in congress, Hamilton wrote in all haste for his advice. On Sunday, Madison speeded an answer to Poughkeepsie, and on the morning of the twenty-first Hamilton read to the convention its words, which were as follows:

1788. July 19. 20. 21.

"My opinion is, that a reservation of a right to withdraw, if amendments be not decided on under the form of the constitution within a certain time, is a *conditional* ratification; that it does not make New York a member of the new union, and, consequently, that she could not be received on that plan. The constitution requires an adoption *in toto* and *forever*. It has been so adopted by the other states. An adoption for a limited time would be as defective as an adoption of some of the articles only. In short, any *condition* whatever must vitiate the ratification. The idea of reserving a right to withdraw was started at Richmond, and considered as a conditional ratification, which was itself abandoned as worse than a rejection."[2]

The voice of Virginia, heard through Madison, was effective. Following the example of Massachusetts, and appropriating the words of its governor, on the twenty-third Samuel Jones, supported by Melancthon Smith, proposed, like Hancock, to make no "condition" and to ratify the constitution "in full confidence" of the adoption of all needed amendments. Lansing's motion for conditions was nega-

23. 24.

[1] For the latter part of the convention there is need to resort to the Penn. Packet and the Independent Gazetteer for July, 1788, where details are given.

[2] Hamilton's Works, i. 465.

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tived in committee by a vote of thirty-one to twenty-eight, and on Friday, the twenty-fifth, the convention agreed to the report of its committee of the whole in favor of the form of Samuel Jones and Melancthon Smith by thirty yeas to twenty-five nays, the largest vote on any close division during the whole session. This vote was purchased at the price of consenting to the unanimous resolution, that a circular letter be prepared to be laid before the different legislatures of the United States recommending a general convention to act upon the proposed amendments of the different legislatures of the United States. On Saturday, the twenty-sixth, the form of ratification of the constitution was agreed to by a vote of thirty against twenty-seven. More persons were absent from the vote than would have been necessary to change it. On the following Monday New York invited the governors of the several states in the union to take immediate and effectual measures for calling a second federal convention to amend the constitution. "We are unanimous," said Clinton, "in thinking this measure very conducive to national harmony and good government." Madison, as he read the letter, called the proposal a pestilent one, and Washington was touched with sorrow that just as the constitution was about to anchor in harbor it might be driven back to sea.

1788. July 25. 26. 28.

But the city of New York set no bounds to its gladness at the acceptance of the constitution; the citizens paraded in a procession unrivalled in splendor. The miniature ship which was drawn through the streets bore the name of Hamilton. For him

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CHAP. II. this was his happiest moment of unclouded triumph.

1788. North Carolina held its convention before the result in New York was known. The state wanted geographical unity. A part of its territory west of the mountains had an irregular separate organization under the name of Frankland. Of the rest there was no natural centre from which a general opinion could emanate; besides, toward the general government the state was delinquent, and it had not yet shaken from itself the bewildering influence of paper money.

June 28. "In this crisis," wrote Washington, "the wisest way for North Carolina will be to adjourn until the people in some parts of the state can consider the magnitude of the question, and the consequences involved in it, more coolly and deliberately."[1] The convention, which consisted of two hundred and

July 21. eighty-four members, assembling on the twenty-first of July, elected as its president Johnston, then governor of the state; organized itself with tranquillity and dignity; and proceeded to discuss the constitution in committee, clause by clause. The convention

23–Aug. 1. employed eight days in its able debates, of which very full and fair accounts have been preserved.

First among the federalists,[2] and the master mind of the convention, was James Iredell, who, before he was forty years old, was placed by Washington on the supreme bench of the United States. He was supported by William Richardson Davie, who had gained honor in the war and at the bar, and afterward held

[1] Sparks, ix. 390, 391.

[2] McRee's Iredell, ii. 180–183; for instruction an invaluable work.

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high places in North Carolina and in the union; by Samuel Johnston, Archibald Maclaine, and Richard Dobbs Spaight. CHAP. II. 1788.

The other side was led by Willie Jones, of Halifax, noted for wealth and aristocratic habits and tastes, yet by nature a steadfast supporter of the principles of democracy.[1] He was sustained by Samuel Spencer, of Anson, a man of candor and moderation, and as a debater far superior to his associates; by David Caldwell, from Guilford, a Presbyterian divine, fertile in theories and tenacious of them; and by Timothy Bloodworth, a former member of congress; who as a preacher abounded in offices of charity; as a politician dreaded the subjection of southern to northern interests. July 23–Aug. 1.

The friends of the constitution had the advantage of spreading their arguments before the people; on the other side Willie Jones, who held in his hand the majority of the convention, citing the wish of Jefferson that nine states might ratify the constitution, and the rest hold aloof for amendments, answered in this wise: "We do not determine on the constitution; we neither reject nor adopt it; we leave ourselves at liberty; there is no doubt we shall obtain our amendments and come into the union." July 31.

At his word the convention deferred the ratification of the constitution, and proposed amendments by one hundred and eighty-four votes against eighty-four. But harmony between the state and the new federal government was pre-established by a rule that any impost which congress might ordain for the union Aug. 1. 2.

[1] McRee's Iredell, ii. 232; Moore's N. C., i. 384.

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CHAP. II. should be collected in North Carolina by the state "for the use of congress."

1788. The scales were ready to drop from the eyes of Rhode Island. That state, although it had taken no part in the federal convention and for a year and more had neglected to attend in congress, watched without disapprobation the great revolution that was taking place. Neither of the two states which lingered behind remonstrated against the establishment of a new government before their consent; nor did they ask the United States to wait for them. The worst that can be said of them is, that they were late in arriving.

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CHAPTER III.

THE FEDERAL GOVERNMENT OF THE UNITED STATES.

It was time for America to be known abroad as a nation. The statesmen of France reproached her unsparingly for failing in her pecuniary engagements. Boatmen who bore the flag of the United States on the father of rivers were fearlessly arrested by Spain, while Don Gardoqui, its agent, in private conversation tempted the men of Kentucky "to declare themselves independent" by the assurance that he was authorized to treat with them as a separate power respecting commerce and the navigation of the Mississippi.[1]

The colonists in Nova Scotia were already absorbing a part of south-eastern Maine; and inventing false excuses for doing so. Great Britain declined to meet her own obligations with regard to the slaves whom she had carried away, and who finally formed the seed of a British colony at Sierra Leone. She did not give up her negotiations with the men of Vermont. She withheld the interior posts, belonging to the United States; in the commission for the

[1] Letters to Washington, iv. 248.

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CHAP. III.

government of Upper Canada she kept out of sight the line of boundary, in order that the commanding officer might not scruple to crowd the Americans away from access to their inland water line, and thus debar them from their rightful share in the fur-trade. She was all the while encouraging the Indian tribes within the bounds of New York and to the south of the western lakes to assert their independence. Hearing of the discontent of the Kentuckians and the men of west North Carolina, she sought to foment the passions which might hurry them out of the union, as far as it could be done without promising them protection.

1789.

1786. In England John Adams had vainly explained the expectation of congress that a British plenipotentiary minister should be sent to the United States.[1] The bills regulating Newfoundland and intercourse with America were under the leadership of the same Jenkinson who had prepared the stamp act; and, with the acquiescence of Pitt, the men and the principles which had governed British policy toward America for most of the last twenty years still prevailed.[2] In 1788 the son of George Grenville, speaking for the ministry in the house of commons, said: "Great Britain, ever since the peace, has condescended to favor the United States."[3] Moreover, the British government would take no notice of American remonstrances against the violations of the treaty of peace. Self-respect and patriotic pride forbade John Adams to remain.

1788. Feb. 11.

[1] Adams to Carmarthen, 6 Feb., 1786.

[2] Adams to Jay, 27 Feb., 1786.

[3] Speech of Grenville, 11 Feb., 1788. Almon's Parliamentary Register, 23, p. 179.

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Adams and Jefferson had exchanged with each other their portraits, as lasting memorials of friendship; and Adams, on leaving Europe, had but two regrets: one, the opportunity of research in books; the other, that immediate correspondence with Jefferson which he cherished as one of the most agreeable events in his life. "A seven months' intimacy with him here and as many weeks in London have given me opportunities of studying him closely," wrote Jefferson to Madison. "He is vain, irritable, and a bad calculator of the force and probable effect of the motives which govern men. This is all the ill which can possibly be said of him. He is disinterested; profound in his views; and accurate in his judgment, except where knowledge of the world is necessary to form a judgment. He is so amiable, that you will love him, if ever you become acquainted with him."[1] CHAP. III. 1788.

In America the new constitution was rapidly conciliating the affections of the people. Union had been held dear ever since it was formed; and now that the constitution was its surest guarantee, no party could succeed which did not inscribe union, and with union the constitution, on its banner. In September, 1788, the dissidents of Pennsylvania held a conference at Harrisburg. With the delegates from beyond the mountains came Albert Gallatin, a native of Geneva, and educated there in a republic of a purely federal form. Their proceedings bear the marks of his mind. They resolved for themselves and recommended to all others to acquiesce in the organization Sept.

[1] Jefferson, ii. 107.

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CHAP. III. 1788. Sept. of the government under "the federal constitution, of which the ratification had formed a new era in the American world;" they asked, however, for its speedy revision by a general convention. All their actions were kept within the bounds of legality.[1]

In Virginia there had been a great vibration of opinion. Its assembly, which met on the twentieth Oct. 20. of October, 1788, was the first to take into consideration the proposal for another federal convention. The enemies to the government formed a decided majority of the legislature.[2] No one of its members was able to encounter Patrick Henry in debate, and his edicts were registered without opposition.[3] He had only to say, "Let this be law," and it became law. Taking care to set forth that so far as it depended on Virginia the new plan of government would be carried into immediate operation, the as- 30. sembly proposed a second federal convention, and invited the concurrence of every other state.[4] Madison was the fittest man in the union to be of the senate of the United States: Henry, after pouring forth a Nov. 8. declamation against his federal principles,[5] nominated Richard Henry Lee and Grayson for the two senators from Virginia, and they were chosen at his bidding. He divided the state into districts, cunningly restricting each of them to its own inhabitants in the choice of its representative, and taking care to compose the district in which Madison would be a candidate out of counties which were thought to be un-

[1] Life of Gallatin by Henry Adams, 77; Elliot, ii. 544.
[2] Madison, i. 436, 437.
[3] Washington to Madison, 17 Nov., 1788. MS. Tobias Lear to Langdon, 31 Jan., 1787. MS.
[4] Rives's Madison, ii. 646.
[5] Madison, i. 443, 444.

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friendly to federalism. Assured by these iniquitous preparations, Monroe, without scruple, took the field against Madison. CHAP. III. 1788. Oct.

In Connecticut the circular letter of New York had a reading among other public communications, but "no anti-federalist had hardiness enough to call it up for consideration or to speak one word of its subject."[1]

The legislature of Massachusetts concurred with Hancock, the governor, that an immediate second federal convention might endanger the union.[2] The legislature of Pennsylvania put the question at rest by saying: "The house do not perceive this constitution wanting in any of those fundamental principles which are calculated to ensure the liberties of their country. The happiness of America and the harmony of the union depend upon suffering it to proceed undisturbed in its operation by premature amendments. The house cannot, consistently with their duty to the good people of this state or with their affection to the citizens of the United States at large, concur with Virginia in their application to congress for a convention of the states." This vote, Mifflin, the governor, early in March, 1789, communicated to the governor of Virginia,[3] and the subject was heard of no more. 1789. March 6.

Congress as early as the second of July, 1788, was notified that the constitution had received the approval of nine states; but they wasted two months 1788. July.

[1] Trumbull to Washington, Oct., 1788. Letters to Washington, iv. 288.

[2] New York Daily Gazette of 17 Feb., 1789.

[3] Pennsylvania Archives, xi. 557, 558.

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1788. Sept. 13. in wrangling about the permanent seat of the federal government, and at last could agree only on New York as its resting place. Not till the thirteenth of September was the first Wednesday of the following January appointed for the choice of electors of president in the several states; and the first Wednesday in March, which in that year was the fourth, for commencing proceedings under the constitution. The states, each for itself, appointed the times and places for electing senators and representatives.

The interest of the elections centred in New York, Virginia, and South Carolina. In four districts out of the six into which New York was divided the federalists elected their candidates. Having in the state legislature but a bare majority in the senate, while their opponents outnumbered them in the house, each branch made a nomination of senators; but the senate refused to go into a joint ballot. For this there was the excuse that the time for a new election was close at hand. But the senate further refused to meet the house for the choice of electors of president, and this was an act of faction.

The star of Hamilton was then in the ascendant, and he controlled the federalists; but only to make his singular incapacity to conduct a party as apparent as his swiftness and power of thought. Instead of organizing the sure friends of the constitution as a compact and permanent party, he planned only to defeat Clinton's re-election, and for that end led them to join with Aaron Burr in selecting for their candidate Robert Yates, who had deserted his post in the federal convention, but had since avowed the

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opinion which was held by every one in the state that the new constitution should be supported. New York at the moment was thoroughly federal, yet Clinton escaped defeat through the fidelity of his own county of Ulster and the insignificance of his opponent, while the federalists were left without any state organization. In the new legislature both branches were federal, and Schuyler was readily chosen one of the two United States senators. After vain attempts to choose his colleague, Rufus King, who but a few months before had removed to New York, was elected by a majority in one house, by a unanimous vote in the other.[1]

1788. Sept. 18.

In Virginia, Madison went into the counties that were relied on to defeat him, reasoned with the voters face to face, and easily won the day. Of the ten delegates from the state, seven were federalists, of whom one was from Kentucky. South Carolina elected avowed anti-federalists, except Butler, of the senate, who had conceded many points to bring about the union and yet very soon took the alarm that "the southern interest was imperilled."[2]

Under the constitution the house of representatives formed a quorum on the first of April. The senate on the sixth chose John Langdon, of New Hampshire, its president. The house of representatives was immediately summoned, and in the presence of the two branches he opened and counted the votes. Every one of the sixty-nine, cast by the ten states which

1789. April 1. 6.

[1] The result of the whole was disastrous for Hamilton. Schuyler having drawn the short term, in less than two years Aaron Burr knew how to conciliate Clinton and to collect out of the discordant elements in New York support enough to supersede Schuyler, Hamilton's father-in-law, in the senate of the United States.

[2] Pierce Butler to Iredell, in Life of Iredell, ii. 264, 265.

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CHAP. III.

took part in the election, was for Washington. John Adams had thirty-four votes; and as no other obtained more than nine, he was declared to be the vice-president. The house devolved upon the senate the office of communicating the result to those who had been chosen; and proceeded to business.

1789. April 6.

March 6.

"I foresee contentions," wrote Madison, "first between federal and anti-federal parties, and then between northern and southern parties, which give additional disagreeableness to the prospect."[1] The events of the next seventy years cast their shadows before. Madison revived the bill which he had presented to congress on the eighteenth of March, 1783, for duties on imports, adding to it a discriminating duty on tonnage. For an immediate public revenue, Lawrence, of New York, proposed a general duty *ad valorem*. England herself, by restraining and even prohibiting the domestic industry of the Americans so long as they remained in the condition of colonial dependence, had trained them to consider the establishment of home manufactures as an act of patriotic resistance to tyranny. Fitzsimons, of Pennsylvania, disapproved of a uniform *ad valorem* duty on all imports. He said: "I have in contemplation to encourage domestic manufactures by protecting duties." Tucker, of South Carolina, enforced the necessity of great deliberation by calling attention to the antagonistic interests of the eastern, middle, and southern states in the article of tonnage. Boudinot, of New Jersey, wished glass to be taxed, for there were already several manufactures of it in

April 8.

9.

[1] Madison, i. 450, 451.

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the country. "We are able," said Hartley, of Pennsylvania, "to furnish some domestic manufactures in sufficient quantity to answer the consumption of the whole union, and to work up our stock of materials even for exportation. In these cases I take it to be the policy of free, enlightened nations to give their manufactures that encouragement necessary to perfect them without oppressing the other parts of the community." 1789. April 9.

"We must consider the general interests of the union," said Madison, "as much as the local or state interest. My general principle is that commerce ought to be free, and labor and industry left at large to find their proper object." But he admitted that "the interests of the states which are ripe for manufactures ought to have attention, as the power of protecting and cherishing them has by the present constitution been taken from the states and its exercise thrown into other hands. Regulations in some of the states have produced establishments which ought not to be allowed to perish from the alteration which has taken place, while some manufactures being once formed can advance toward perfection without any adventitious aid. Some of the propositions may be productive of revenue and some may protect our domestic manufactures, though the latter subject ought not to be too confusedly blended with the former." "I," said Tucker, "am opposed to high duties because they will introduce and establish a system of smuggling, and because they tend to the oppression of citizens and states to promote the benefit of other states and other classes of citizens."[1] May 8.

[1] Annals of Congress, i. 291.

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1789. May 8. The election to the presidency found Washington prepared with a federal policy, which was the result of long meditation. He was resolved to preserve freedom, never transcending the powers delegated by the constitution; even at the cost of life to uphold the union, a sentiment which in him had a tinge of anxiety from his thorough acquaintance with what Grayson called "the southern genius of America;" to restore the public finances; to establish in the foreign relations of the country a thoroughly American system; and to preserve neutrality in the impending conflicts between nations in Europe.

April 14. On the fourteenth of April he received the official announcement of his recall to the public service, and

16 was at ten o'clock on the morning of the sixteenth on his way. Though reluctant "in the evening of life to exchange a peaceful abode for an ocean of difficulties," he bravely said: "Be the voyage long or short, although I may be deserted by all men, integrity and firmness shall never forsake me."

But for him the country could not have achieved its independence; but for him it could not have formed its union; and now but for him it could not set the federal government in successful motion. His journey to New York was one continued march of triumph. All the way he was met with addresses from the citizens of various towns, from societies, universities, and churches.

16. His neighbors of Alexandria crowded round him with the strongest personal affection, saying: "Farewell, and make a grateful people happy; and may the Being who maketh and unmaketh at his will, re-

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store to us again the best of men and the most beloved fellow-citizen."[1] CHAP. III.

Across the Atlantic Alfieri cried out to him: "Happy are you, who have for the sublime and permanent basis of your glory the love of country demonstrated by deeds." 1789.

To the citizens of Baltimore, Washington said: "I hold it of little moment if the close of my life shall be embittered, provided I shall have been instrumental in securing the liberties and promoting the happiness of the American people."[2] April 17.

He assured the society for promoting domestic manufactures in Delaware that "the promotion of domestic manufactures may naturally be expected to flow from an energetic government;" and he promised to give "a decided preference to the produce and fabrics of America."[3]

At Philadelphia, "almost overwhelmed with a sense of the divine munificence," he spoke words of hope: "The most gracious Being, who has hitherto watched over the interests and averted the perils of the United States, will never suffer so fair an inheritance to become a prey to anarchy or despotism."[4] 20.

At Trenton he was met by a party of matrons and their daughters, dressed in white; singing an ode of welcome to "the mighty chief" who had rescued them from a "mercenary foe;" and strewing flowers before him. 21.

Embarking at Elizabeth Point in a new barge, manned by pilots dressed in white, he cleaved his 23.

[1] Sparks, xii. 139, note.
[2] Sparks, xii. 140, 141.
[3] Sparks, xii. 141.
[4] Sparks, xii. 145.

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course swiftly across the bay, between gayly decorated boats, filled with gazers who cheered him with instrumental music, or broke out in songs. As he touched the soil of New York he was welcomed by the two houses of congress, by the governor of the state, by the magistrates of the city, by its people; and so attended he proceeded on foot to the modest mansion lately occupied by the presiding officer of the confederate congress. On that day he dined with Clinton; in the evening the city was illuminated. The senate, under the influence of John Adams and the persistency of Richard Henry Lee, would have given him the title of "Highness;" but the house, supported by the true republican simplicity of the man whom they both wished to honor, insisted on the simple words of the constitution, and prevailed.

1789. April 23.

30. On the thirtieth, the day appointed for the inauguration, Washington, being fifty-seven years, two months, and eight days old, was ceremoniously received by the two houses in the hall of the senate. Stepping out to the middle compartment of a balcony, which had been raised in front of it, he found before him a dense throng extending to Broad street, and filling Wall street to Broadway. All were hushed as Livingston, the chancellor of the state, administered the oath of office; but when he cried: "Long live George Washington, President of the United States!" the air was rent with huzzas, which were repeated as Washington bowed to the multitude.

Then returning to the senate chamber, with an aspect grave almost to sadness and a voice deep and

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tremulous, he addressed the two houses, confessing his distrust of his own endowments and his inexperience in civil administration. The magnitude and difficulty of the duties to which his country had called him weighed upon him so heavily that he shook as he proceeded: "It would be peculiarly improper to omit, in this first official act, my fervent supplications to that Almighty Being who presides in the councils of nations, that his benediction may consecrate to the liberties and happiness of the people of the United States a government instituted by themselves. No people can be bound to acknowledge the invisible hand which conducts the affairs of men, more than the people of the United States. Every step by which they have advanced to the character of an independent nation, seems to have been distinguished by some token of providential agency. There exists in the economy of nature an indissoluble union between an honest and magnanimous policy and public prosperity. Heaven can never smile on a nation that disregards the eternal rules of order and right. The preservation of liberty, and the destiny of the republican model of government, are justly considered as deeply, perhaps as finally, staked on the experiment intrusted to the American people."

At the close of the ceremony the president and both branches of congress were escorted to the church of St. Paul, where the chaplain of the senate read prayers suited to the occasion, after which they all attended the president to his mansion.

"Every one without exception," so reports the

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CHAP. III. 1789. April 30. French minister to his government,[1] "appeared penetrated with veneration for the illustrious chief of the republic. The humblest was proud of the virtues of the man who was to govern him. Tears of joy were seen to flow in the hall of the senate, at church, and even in the streets, and no sovereign ever reigned more completely in the hearts of his subjects than Washington in the hearts of his fellow-citizens. Nature, which had given him the talent to govern, distinguished him from all others by his appearance. He had at once the soul, the look, and the figure of a hero. He never appeared embarrassed at homage rendered him, and in his manners he had the advantage of joining dignity to great simplicity."

To the president's inaugural speech, one branch of the legislature thus responded: "The senate will at all times cheerfully co-operate in every measure which may strengthen the union, and perpetuate the liberties of this great confederated republic."

May 5. The representatives of the American people likewise addressed him: "With you we adore the invisible hand which has led the American people through so many difficulties; and we cherish a conscious responsibility for the destiny of republican liberty. We join in your fervent supplication for our country; and we add our own for the choicest blessings of heaven on the most beloved of her citizens."

In the same moments of the fifth day of May, 1789, when these words were reported, the ground was trembling beneath the arbitrary governments of Eu-

[1] Moustier's report on the inauguration of the president of the United States; nearly literally translated.

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rope, as Louis XVI. proceeded to open the states general of France. The day of wrath, against which Leibnitz had warned the monarchs of Europe, was beginning to break, and its judgments were to be the more terrible for the long delay of its coming. The great Frederick, who alone of them all had lived and toiled for the good of his land, described the degeneracy and insignificance of his fellow-rulers with cynical scorn. Not one of them had a surmise that the only sufficient reason for the existence of a king lies in his usefulness to the people. Nor did they spare one another. The law of morality was never suffered to restrain the passion for conquest. Austria preyed upon Italy until Alfieri could only say, in his despair, that despotic power had left him no country to serve; nor did the invader permit the thought that an Italian could have a right to a country. The heir in the only line of protestant kings on the continent of Europe, too blind to see that he would one day be stripped of the chief part of his own share in the spoils, joined with two other robbers to divide the country of Kosciuszko. In Holland dynastic interests were betraying the welfare of the republic. All faith was dying out; and self, in its eagerness for pleasure or advantage, stifled the voice of justice. The atheism of the great, who lived without God in the world, concealed itself under superstitious observances which were enforced by an inquisition that sought to rend beliefs from the soul and to suppress inquiry by torments which surpassed the worst cruelties that savages could invent. Even in Great Britain all the branches of government were con-

1789. May 5.

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CHAP. III.

1789. May 5.

trolled by the aristocracy, of which the more liberal party could in that generation have no hope of being summoned by the king to frame a cabinet. The land, of which every member of a clan had had some share of ownership, had been for the most part usurped by the nobility; and the people were starving in the midst of the liberality which their own hands had extorted from nature. The monarchs, whose imbecility or excesses had brought the doom of death on arbitrary power, were not only unfit to rule, but, while their own unlimited sovereignty was stricken with death, they knew not how to raise up statesmen to take their places, and they awakened in skepticism the fearful passion to destroy. Even the wise and prudent were incensed at the unjust institutions which bore them down; while the lowly classes, clouded by despair, were driven sometimes to admit the terrible thought that religion, which is the poor man's consolation and defence, might after all be but an instrument of government in the hands of their oppressors. There was no relief for the nations but through revolution, and their masters had poisoned the weapons which revolution must use.

In America a new people had risen up without king, or princes, or nobles, knowing nothing of tithes and little of landlords, the plough being for the most part in the hands of free holders of the soil. They were more sincerely religious, better educated, of serener minds, and of purer morals than the men of any former republic. By calm meditation and friendly councils they had prepared a constitution which, in the union of freedom with strength and order, ex-

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celled every one known before; and which secured itself against violence and revolution by providing a peaceful method for every needed reform. In the happy morning of their existence as one of the powers of the world, they had chosen justice for their guide; and while they proceeded on their way with a well-founded confidence and joy, all the friends of mankind invoked success on their unexampled endeavor to govern states and territories of imperial extent as one federal republic.

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LETTERS AND PAPERS

ILLUSTRATING THE FORMATION OF THE FEDERAL CONSTITUTION.

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APPENDIX.

Temple to Lord Carmarthen, New York, 7 July, 1786. Ex.

It is with pleasure that I can inform your lordship what silver and gold is to be had in this country goes in his Majesty's packet boats to England. The last packet, the Tankerville, carried upward of three hundred thousand Spanish milled dollars, and the Carteret packet, to sail to-morrow, will, I believe, carry home near as much more. The French packets carry none.

Monroe to Jefferson, New York, 16 July, 1786.

Dear Sir: I have not heard from you for several months past, the last being dated some time previous to your removal to London. Not knowing you would have stayed so long, I have wrote you by every packet to France. We have now present twelve states, and hope this will be the case for some time. Soon after my arrival here in the winter I suggested to you my apprehensions that the condition of the act of cession from Virginia, which respected the extent of the states to be erected over the ceded territory, was an unpolitic one, and that it might be proper to recommend it to the state to alter it. A proposition to this effect was submitted to congress, which ultimately passed, advising that it be vested in congress to divide the said territory into not less than three nor more than five states; but the investigation of the subject has opened the eyes of a part of the union, so as to enable them to view the subject in a different light from what they have heretofore done. They have, therefore, manifested a desire

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to rescind everything they have heretofore done in it, particularly to increase the number of inhabitants which should entitle such states to admission into the confederacy, and to make it depend on their having one thirteenth part of the free inhabitants of the United States.

This, with some other restrictions they wish to impose on them, evinces plainly the policy of these men to be to keep them out of the confederacy altogether.

I considered this as a dangerous and very mischievous kind of policy, and calculated to throw them into the waters of Britain. I know not with certainty whether they will be able to carry this point, but if it is pressed, and a probability of being carried, we shall object to the power of the United States to determine the numbers without the consent of the state; it having been left open in the act does by no means put it in the power of the United States to make such restrictions on this head as to defeat the condition altogether. If they do not, therefore, agree with the delegation to have it upon the ground of 23 April, 1784, we shall propose a subsequent convention between the parties as to that point, and deny the right of the United States to act otherwise in it.

In my last I advised you of an intrigue on foot under the management of Jay to occlude the Mississippi, supported by the delegation of Massachusetts. Since my last no further measures have been openly taken in the business, yet it is not relinquished. As yet there hath not been a fair trial of the sense of congress on the subject. I have a conviction in my own mind that Jay has managed this negotiation dishonestly; on the other hand, I am persuaded that the minister here has no power on the subject, yet I am firmly persuaded that he has conducted himself in such a manner in this business as to give him and his court hopes which neither the sense of congress nor his instructions authorize.

Having been on all the foreign committees latterly, indeed since you left us, I have had an opportunity of knowing him well, and this communication is founded in circumstances this opportunity hath given me. The Massachusetts delegates, except the president, whose talents and merits have been greatly overrated (though preferable greatly in the latter instance to his brethren), are without exception the most illiberal I have ever seen from that state. Two of these men, whose names are Dana and King, are elected for the next year, which is my motive for making known to you this circumstance. It may possibly

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be of some service to you, as I shall leave congress, to possess information of this kind. The former is, I believe, honest, but the principles of the latter I doubt. It has been proposed and supported by our state to have a colonial government established over the western districts, to cease at the time they shall be admitted into the confederacy. We are fully persuaded it will be beneficial to the settlers and to the United States, and especially those to whose frontiers such establishment formed an immediate barrier. This hath not been decided on, and hath only been postponed in consequence of the inordinate schemes of some men above alluded to, as to the whole policy of the affairs of that country. I am not aware of anything else that I can give you new. In October I shall leave this for Virginia, and shall settle in Fredericksburg for the purpose of commencing the practice of the law.

I hope by this you have reached Paris again, and at home; that you have been well pleased with your trip.

Mr. Madison writes me to-day he is at Philadelphia, and intends in a few days a visit here. I am, dear sir, your affectionate friend and servant.

Rufus King to James Monroe, Tuesday, 30 July, 1786.

DEAR SIR: I called at your house last evening to mention that in a conversation with Mr. Pettit on the subject on which we met Mr. Jay some weeks since at Mr. Alsop's, we coincided in opinion that the committee could do nothing preferable to reporting that they be discharged, the business referred to a committee of the whole house, and that Mr. Jay be directed to attend.

I wish your opinion of the propriety of such a report, and am affectionately your friend, R. King.

Report of a Grand Committee on Federal Powers.

[The first endorsement on the back of the report is as follows:

"No. 18. Report of a sub-committee to the grand committee on federal powers, viz., Mr. Pinckney, Mr. Dane, Mr. Johnson. Entered. Read 7 Aug., 1786. Order for Monday, 14."

The words of the endorsement "a sub-committee to the" are struck out, and the report to congress was made by the grand committee with the new endorsement as above.]

The grand committee, consisting of Mr. Livermore, Mr. Dane, Mr.

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Manning, Mr. Johnson, Mr. Smith, Mr. Symmes, Mr. Pettit, Mr. Henry, Mr. Lee, Mr. Bloodworth, Mr. Pinckney, and Mr. Houstoun, appointed to report such amendments to the confederation and such resolutions as it may be necessary to recommend to the several states for the purpose of obtaining from them such powers as will render the federal government adequate to the ends for which it was instituted, beg leave to submit the following report to the consideration of congress:

Resolved, That it be recommended to the legislatures of the several states to adopt the following articles as articles of the confederation, and to authorize their delegates in congress to sign and ratify the same severally as they shall be adopted, to wit:

ART. 14. The United States in congress assembled shall have the sole and exclusive power of regulating the trade of the states as well with foreign nations as with each other, and of laying such prohibitions, and such imposts and duties upon imports and exports, as may be necessary for the purpose; provided the citizens of the states shall in no instance be subjected to pay higher duties and imposts than those imposed on the subjects of foreign powers; provided, also, that all such duties as may be imposed shall be collected under such regulations as the United States in congress assembled shall establish consistent with the constitutions of the states respectively, and to accrue to the use of the state in which the same shall be payable; provided, also, that the legislative power of the several states shall not be restrained from laying embargoes in times of scarcity; and provided, lastly, that every act of congress for the above purpose shall have the assent of nine states in congress assembled, and in that proportion when there shall be more than thirteen in the union.

ART. 15. That the respective states may be induced to perform the several duties mutually and solemnly agreed to be performed by their federal compact, and to prevent unreasonable delays in any state in furnishing her just proportion of the common charges of the union when called upon, and those essential evils which have heretofore often arisen to the confederacy from such delays, it is agreed that whenever a requisition shall be made by congress upon the several states on the principles of the confederation for their quotas of the common charges or land forces of the union, congress shall fix the proper periods when the states shall pass legislative acts complying therewith, and give full and complete effect to the same; and if any state shall neglect season-

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ably to pass such acts, such state shall be charged with an additional sum to her quota called for from the time she may be required to pay or furnish the same, which additional sum or charge shall be at the rate of ten per cent per annum on her said quota, and if the requisition shall be for land forces, and any state shall neglect to furnish her quota in time, the average expense of such quota shall be ascertained by congress, and such state shall be charged therewith, or with the average expense of what she may be deficient; and in addition thereto, from the time her forces were required to be ready to act in the field, with a farther sum, which sum shall be at the rate of twelve per cent per annum on the amount of such expense.

ART. 16. And that the resources of any state which may be negligent in furnishing her just proportion of the common expense of the union may in a reasonable time be applied, it is further agreed that if any state shall so neglect as aforesaid to pass laws in compliance with the said requisition, and to adopt measures to give the same full effect for the space of ten months, and it shall then or afterward be found that a majority of the states have passed such laws and adopted such measures, the United States in congress assembled shall have full power and authority to levy, assess, and collect all sums and duties with which any such state so neglecting to comply with the requisition may stand charged on the same by the laws and rules by which the last state tax next preceding such requisition in such state was levied, assessed, and collected, to apportion the sum so required on the towns or counties in such state, to order the sums so apportioned to be assessed by the assessors of such last state tax, and the said assessments to be committed to the collectors of the same last state tax, to collect and to make return of such assessments and commitments to the treasurer of the United States, who by himself or his deputy when directed by congress shall have power to recover the moneys of such collectors for the use of the United States in the same manner and under the same penalties as state taxes are recovered and collected by the treasurers of the respective states; and the several towns or counties respectively shall be responsible for the conduct of said assessors and collectors; and in case there shall be any vacancy in any of said offices of assessors or collectors by death, removal, refusal to serve, resignation, or otherwise, then other fit persons shall be chosen to fill such vacancies in the usual manner in such town or county within twenty days after notice of the assessment; and in case any towns or counties,

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any assessors, collectors, or sheriffs, shall neglect or refuse to do their duty, congress shall have the same rights and powers to compel them, that the state may have in assessing and collecting state taxes.

And if any state by any legislative act shall prevent or delay the due collection of said sums as aforesaid, congress shall have full power and authority to appoint assessors and collectors thereof, and sheriffs to enforce the collections under the warrants of distress issued by the treasurer of the United States; and if any further opposition shall be made to such collections by the state or the citizens thereof, and their conduct not disapproved of by the state, such conduct on the part of the state shall be considered as an open violation of the federal compact.

ART. 17. And any state which from time to time shall be found in her payments on any requisition in advance on an average of the payments made by the states shall be allowed an interest of per cent per annum on her said advanced sums or expenses, and the state which from time to time shall be found in arrears on the principles aforesaid shall be charged with an interest of per cent per annum on the sums in which she may be so in arrears.

ART. 18. In case it shall hereafter be found necessary by congress to establish any new systems of revenue and to make any new regulations in the finances of the United States for a limited term not exceeding fifteen years in their operation, for supplying the common treasury with moneys for defraying all charges of war and all other expenses that shall be incurred for the common defence or general welfare, and such new systems or regulations shall be agreed to and adopted by the United States in congress assembled and afterward be confirmed by the legislatures of eleven states, and in that proportion when there shall be more than thirteen states in the union, the same shall become binding on all the states as fully as if the legislatures of all the states should confirm the same.

ART. 19. The United States in congress assembled shall have the sole and exclusive power of declaring what offences against the United States shall be deemed treason and what offences against the same misprision of treason, and what offences shall be deemed piracy or felonies on the high seas, and to annex suitable punishments to all the offences aforesaid respectively, and power to institute a federal judicial court for trying and punishing all officers appointed by congress for all crimes, offences, and misbehavior in their offices, and to which court

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an appeal shall be allowed from the judicial courts of the several states in all causes wherein questions shall arise on the meaning and construction of treaties entered into by the United States with any foreign power, or on the law of nations, or wherein any question shall arise respecting any regulations that may hereafter be made by congress relative to trade and commerce, or the collection of federal revenues pursuant to powers that shall be vested in that body, or wherein questions of importance may arise, and the United States shall be a party, provided that the trial of the fact by jury shall ever be held sacred, and also the benefits of the writ of *habeas corpus;* provided, also, that no member of congress or officer holding any other office under the United States shall be a judge of said court, and the said court shall consist of seven judges, to be appointed from the different parts of the union, to wit, one from New Hampshire, Rhode Island, and Connecticut, one from Massachusetts, one from New York and New Jersey, one from Pennsylvania, one from Delaware and Maryland, one from Virginia, and one from North Carolina, South Carolina, and Georgia, and four of whom shall be a quorum to do business.

ART. 20. That due attention may be given to the affairs of the union early in the federal year, and the sessions of congress made as short as conveniently may be, each state shall elect her delegates annually before the first of July, and make it their duty to give an answer before the first of September in every year whether they accept their appointments or not, and make effectual provision for filling the places of those who may decline, before the first of October yearly, and to transmit to congress by the tenth of the same month the names of the delegates who shall be appointed and accept their appointments; and it shall be the indispensable duty of delegates to make a representation of their state in congress on the first Monday in November annually; and if any delegate or delegates, when required by congress to attend so far as may be necessary to keep up a representation of each state in congress, or having taken his or their seat, shall withdraw without leave of congress, unless recalled by the state, he or they shall be proceeded against as congress shall direct, provided no punishment shall be further extended than to disqualifications any longer to be members of congress or to hold any office of trust or profit under the United States or any individual state; and the several states shall adopt regulations effectual to the attainment of the ends of this article.

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Otto to Vergennes, New York, 13 August, 1786.

My Lord: The commercial convention which is to take place at Annapolis in the beginning of the next month now occupies the attention of all the legislatures of America. The delegates have been appointed, but it is doubtful whether they will assemble promptly, and whether their minds will agree upon general principles of action.

Everybody is convinced of the necessity of establishing as soon as possible a general plan for the commerce of the continent, and the most eminent personages from almost all the states assure me that they desire to grant exclusive benefits to France and to lay extraordinary duties on the commerce of Great Britain.

Mr. Jay himself has just spoken to me on this subject with much ardor. I beg of you to permit me to report in this place his own words. It does not belong to me to decide upon the justice of his observations, but it is my duty to transmit to you the opinions of the best informed Americans upon a subject so closely connected with the prosperity of our commerce. "We perceive very clearly," Mr. Jay said to me, "that the commerce of America is so reduced that extraordinary efforts are necessary to extricate it from its present embarrassments. Europe seems to neglect us because we have little wealth, but our situation is such that we shall of necessity become a rich and formidable power when a numerous population shall cause our industry to thrive.

"According to this idea, it would be good policy to cultivate us while we are young and need assistance from European nations; but among all the powers, with none do we desire more earnestly to enter into relations of friendship and commerce than with France. I am convinced that the people, and, above all, congress, are disposed to grant to your commerce exclusive favors, and to sever all bonds which still bind us to England.

"Your wines, your brandies, your manufactured goods of every sort suit us better than any we can import from other nations, but there are two things constantly opposing the success of our trade—the difficulty of exchange, and the want of honesty of your merchants in their consignments to America.

"I might mention further the restriction put upon our exports by your privileged companies, but we have reason to believe that these difficulties will be dissipated forthwith.

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"We have not so much hope with regard to the returns which we might make to France of various objects which the kingdom has hitherto drawn from the north of Europe. In granting to our ship-timber and naval stores particular favors, the two nations would receive a very great service, and the Americans would be supplied with the means of paying for the goods which they import from France. As to the commerce with the Antilles, it cannot be denied that by encouraging the supply of breadstuffs to the planter, the price of sugars would necessarily be reduced, and the Bordeaux merchants would make good the loss of a part of their trade in flour by a largely increased export of wines and other merchandise which they would furnish us.

"It is certain, furthermore, that to buy the produce of other nations we must sell our own commodities. If Portugal receives our flour, she will pay us in wines; so also all the provisions which we introduce into Santo Domingo or Martinique will serve to offset the wines of Bordeaux and the other productions of the kingdom.

"All good citizens see with chagrin that the obstacles to commerce with the Antilles have hitherto furnished arms against France to evil-intentioned persons. An opinion prevails, and I cannot avoid sharing it, that there is a secret agreement between your ministry and that of Great Britain to exclude us from those islands. If, instead of these difficulties, France would exert herself to attract us by all sorts of favors, I know too well the dispositions and the taste of my countrymen not to assure you that she might almost monopolize the commerce of the United States. An object of this importance demands the utmost attention of your court at a time when congress is about to frame a general act of navigation; all these advances will be deeply felt, and will produce the best effect."

Similar views, my lord, have been expressed to me by the principal members of congress, and especially by the influential men of New England.

The sentiments of Mr. King, which I have had the honor to report to you, are shared by but a few persons who are interested in the Newfoundland fisheries. In general, I have found in the northern states very favorable dispositions toward us and animosity toward England. It seems that the ill success of the American commissioners to the Barbary powers, the reply of Lord Carmarthen to Mr. Adams, and the repeated acts of hostility of the savages, have drawn nearer to us the heads of all the governments.

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The despatches of Mr. Jefferson, in which he mentions the numerous wholesome counsels which you have given to him, have likewise produced an excellent effect, and the people have been well satisfied with the resolutions of the committee in regard to the supply of tobacco.

The contract with Mr. Morris alarmed all the Virginia planters, and I had the honor to inform you at the time of all that I knew on that subject.

I transmit these details with the more confidence as I see by a letter of the Marquis de Castries to M. de la Forest that our court is not averse to lending an ear to overtures concerning the means of facilitating commerce between the two nations. Permit me to add in this place that every favor which can be reconciled with the real interests of our commerce will be received by the Americans with much gratitude. Enthusiasm easily becomes general in this country by means of the public papers, which are found in the hands of every one; and the official letters of Mr. Jefferson, or any *arrêt* of the council which favors any branch whatever of American commerce, causes the greatest sensation.

Monroe to Madison, New York, 14 August, 1786. Ex.

It is manifest here that Jay and his party in congress are determined to pursue this business as far as possible, either as a means of throwing the western people and territory without the government of the United States, and keeping the weight of population and government here, or of dismembering the government itself for the purpose of a separate confederacy. There can be no other object than one of these, and I am, from such evidences as I have, doubtful which hath the influence. I write in congress, and therefore am deprived of the advantage of the cipher, but am so desirous of your sentiments as to risk mine without that cover. Sincerely your friend and servant, etc.

Washington to Theodoric Bland, 15 August, 1786.

Dear Sir: I can only repeat what I have formally told my countrymen in a very serious manner, "that honesty will be found, on every experiment, the best policy." How far arguments deduced from this topic, and from the present alarming troubles in Rhode Island, can with pertinency and force be made use of against any attempts to procure a paper currency in the state, I leave to your judgment to decide. The advantages which are to be derived from seminaries of

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learning, from the improvement of our roads, a proper establishment of our militia, the extension of inland navigation, etc., must have struck you in too forcible a manner to need a remembrancer.

My sentiments respecting federal measures in general are so well known that it is unnecessary to reiterate them. I am, etc.

Monroe to Jefferson, New York, 19 August, 1786. Ex.

Dear Sir: My last advised you of the progress of Spanish negotiation. Until that time the reference of Jay's letter to a committee was, I believe, the point at which it rested; but to enable you to form a satisfactory idea of the object of that letter, I transcribe [the] only operative paragraph in it:

"I take the liberty, therefore, of submitting to the consideration of congress whether it might not be advisable to appoint a committee with power to instruct and direct me on every point and subject relative to the proposed treaty with Spain." You are to observe his only ultimata were respecting the Mississippi and the boundaries; the committee, consisting of a member from Massachusetts, Pennsylvania, and myself, kept it about two months, and at length two of them reported that they be discharged, the letter referred to a committee of the whole, and himself ordered to attend.

It was agreed to, with this alteration, that he attend congress to explain the difficulties stated in his letter, and to lay before them a state of the negotiation. He accordingly came, and, being aware that objections would be made to his entering into debate, produced a long written speech, which he read in virtue of his office, and which was in substance as follows:

France, against our right to the navigation of the Mississippi, and in case of a variance with Spain upon that point against us, will be on good terms with Spain; therefore, on that account as well as to avail ourselves of her[1] influence in the councils of Portugal, the Italian states, and the Barbary powers, as also in those of France herself; that Great Britain would rejoice to see us at variance with Spain, and therefore would foment dissensions between us; that in case this treaty failed, Spain, mortified and disappointed in the eyes of all Europe, would enter into engagements with Britain (or in resentment) so as to exclude us from her ports. For these reasons, and fully to obtain the confidence

[1] Her, i. e., Spain's. The obscurity and incompleteness of expression here and elsewhere are in the MS. of Monroe's letters.

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and good wishes of that power, as also her good services, in the lines aforesaid, he thought it wise to forbear the use of the navigation of the Mississippi for twenty-five years or thirty, if necessary, as a condition to obtain, at the same time, the following liberal articles as the basis of a commercial treaty: 1. All commercial confederation shall be reciprocal, Spanish merchants in the ports of [America] and American merchants in those of Spain and the Canaries to have the rights of native merchants of the two countries. 2. To establish consuls in their respective countries. 3. The *bona fide* manufactures and productions of both parties, tobacco excepted, to be admitted into the ports aforesaid, in the vessels of both parties, on the same footing as if they were their own manufactures and productions; and further, that all such duties and imposts as may mutually be thought necessary to lay on them by either party shall be regulated on principles of exact reciprocity by a tariff to be formed within one year from the ratification of this treaty; and, in the mean time, they shall severally pay, in the ports of each other, those of natives only. 4. Masts and timber for the navy to be bought, provided they be as cheap as in other countries.

This was the amount of his communications as to the project which he urged our adopting by all the arguments he could think of; such as, we can't obtain the use, and therefore of no consequence. We must now decide; must terminate in accommodation, war, or disgrace—the last, the worst; the second, unprepared for; the first, the preferable course. That we should avail ourselves of the moment, or Britain would; therefore, no [time] to lose, with others of the same kind. This subject hath, since the above communication, engaged the attention of congress for ten days past. The delegates of Massachusetts, who are his instruments on the floor, moved in committee to repeal his ultimata with a view of suffering him to proceed at pleasure, and upon this point hath the debate turned. It hath been manifest they have had throughout seven states, and we, five, they to Pennsylvania inclusive and Delaware absent, the rest against him; we deny the right in seven states to alter an instruction so as to make it a new one, but they will proceed, be that as it may; the treaty in that event will be formed and soon presented for ratification.

To prevent this, we have told them we would give notice to the secretary of the incompetency of his powers, as also to the [minister?] resident of Spain, to justify congress in refusing to ratify if they

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should choose it. In this state it remained without any new proposition until yesterday, being Friday; we stated, however, in the close of the day that we would agree that a treaty be formed upon the following conditions:

That exports be admitted through the Mississippi, paying at New Orleans a duty of two and a half per cent *ad valorem* to Spain, to be carried thence in Spanish, American, and French bottoms; that imports be prohibited in that line. If this should be adopted, we propose to change the scene of negotiation and to carry it to Madrid, to take it out of the present and put it into yours and Adams's hands. We fear, however, and with too much reason, that this will fail; nothing could have been more unfortunate than even the agitation of this subject; it hath lessened the ground on which we stood, and given Spain hopes she had no reason to calculate on. What prospect to the general interest might be calculated on as resulting from the deliberations of the convention at Annapolis, must be diminished—in short, the measure strikes me as every way highly injudicious.

I am sorry to inform you that our affairs are daily falling into a worse situation, arising more from the intrigues of designing men than any real defect in our system or distress of our affairs. The same party who advocate this business have certainly held in this city committees for dismembering the confederacy, and throwing the states eastward the Hudson into one government. As yet this business hath not gone far, but that there should be a party in its favor, and a man heretofore so well respected, but in my opinion so little known, engaged in it, is to me very alarming. Congress hath again required money for the ensuing year, including that part of the principal of the foreign loans that becomes due in that time. All the states except New York and Pennsylvania have acceded to the impost to the acceptation of congress; the former hath granted the revenue accruing from it, but hath not made the collectors so amenable to congress as the system requires, and the other states have done; and Pennsylvania hath granted the impost but suspended its operation until all the states have granted the supplemental funds. A committee is appointed to attend the legislature of Pennsylvania on this subject, and recommendation passed to the executive of New York to convene the legislature to take the said system again into consideration. They meet in the usual term in the fall or commencement of the winter. They have passed an ordinance regulating the coin.

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I have been apprised of the arrival of the Encyclopædia at Baltimore. Your late communications on the commercial subject have given great satisfaction to congress. We hope the monopoly of our tobacco in the hands of the Farmers General will ultimately be abolished. The services of Monsieur Lafayette are acknowledged with gratitude by congress.

I shall leave this about the 1st of October for Virginia, Fredericksburg. Believe me, I have not relinquished the prospect of being your neighbor. The house for which I have requested a plan may possibly be erected near Monticello; to fix there, and to have yourself in particular, with what friends we may collect around for society, is my chief object, or, rather, the only one which promises to me, with the connection I have formed, real and substantial pleasure, if indeed by the name of pleasure it may be called.

I am, dear sir, very affectionately, your friend and servant, etc.

Otto to Vergennes, New York, 23 August, 1786.

My Lord: For more than a year Mr. Gardoqui has been negotiating with Mr. Jay a commercial treaty, and to-day is no further advanced than on his arrival here. Many circumstances conduce to this delay which I think proper to explain.

The northern states, which in all the commercial negotiations recognise no other interest than that of their fisheries, would be well disposed to conclude with Mr. Gardoqui if the delegates from the South did not propose as a condition *sine qua non* the opening of the Mississippi.

In consequence of this difference of sentiment and interest, the delegates of the five southern states have formed a league to break off completely every negotiation with Mr. Gardoqui. They publicly assert that that minister has no powers (to conclude a treaty), that this whole affair is in the hands of Mr. de Galvez, and that in general a negotiation of this importance ought not to be entered on in America, since the ease with which in a republic the dispositions of the sovereign body are ascertained gives great advantages to a foreign minister, who on his part conceals with the greatest care the instructions and the ultimatum of his court.

They fear, moreover, that the indifference of the northern states to the navigation of the Mississippi will cause them to urge on the negotiation; and that they will find means to secure votes, to the prejudice

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of the southern states. In open congress they have asserted that France alone could succeed in procuring for them a treaty of commerce with Spain, and that they should negotiate with that power in vain without the mediation of their great ally.

In the midst of this fermentation the leaders of this party came to me to explain to me the necessity of having recourse to your good offices, and of putting this negotiation wholly into the hands of his Majesty.

"The navigation of the Mississippi," they said to me, "is perhaps the most important object for the United States; the inhabitants of the vast and fertile regions of Kentucky, and of the neighboring countries, have no other outlet than New Orleans. If congress is unable to procure for them an *entrepôt* in that city, they will regard its protection as wholly useless, and we are informed, in the most positive manner, that they are disposed to separate from the confederation and to throw themselves into the arms of England, in order, through the lakes and the river St. Lawrence, to gain the outlet which is refused them on the Mississippi side.

"In this case it will be easy for Great Britain to exchange Gibraltar for West Florida, and to make the whole interior of America dependent upon her. We earnestly desire to be in intimate relations with Spain, but we are at the same time convinced that without the support of France we shall never be able to negotiate with success. Some of the northern delegates, and especially Mr. Jay, wished to persuade us that France was opposed to the opening of the Mississippi; but we know that peace has brought about a new order of affairs, and that the objections which your court made to our pretensions can no longer be based upon the same principle. Only the Count Vergennes can procure for us the advantages we desire; we have written this to Mr. Jefferson, under an injunction of secrecy, and we wish that your court may make our treaty for us, or that no treaty at all be made."

After having declared to me many other motives leading them to wish for this measure, they communicated to me in writing the following articles, which should serve as a basis for the negotiation:

1. All the commodities and productions of interior America to descend the Mississippi in flat-boats to New Orleans, which will be the *entrepôt* for those commodities, and will serve only for exportations.

2. The Americans to pay, on their arrival at New Orleans, a duty

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of two and a half per cent on the value of their goods, which duty will take the place of compensation for the favor asked of Spain.

3. An American consul to reside in that city, and to be personally responsible for all that may be contraband.

4. The said commodities to be re-exported from New Orleans only in French, Spanish, or American bottoms.

5. Importations of every sort to be prohibited, and no boat to ascend the Mississippi except flat-boats which have served to transport goods to New Orleans, and these empty, or at most carrying only passengers.

6. Spain to permit French and American merchants to reside in New Orleans, to deal in the aforesaid commodities.

7. France to share in this commerce because of her mediation.

In making these communications to me, my lord, the delegates begged me to transmit them to you at once, at the same time enjoining upon me the most profound secrecy toward Mr. Gardoqui and all persons who might speak to me of this negotiation. Without giving them any hope, and conforming to the orders which you thought proper to give me, that I should not interfere with the affairs of Spain, I said to them that they might rely upon my discretion, and that I would communicate to you the confidential conversation which they had held with me.

They wish to give powers to Mr: Jefferson to negotiate the treaty at Madrid, but to instruct him in the most positive manner to conform entirely to your counsels, and to take no step without your consent. They already have seven states on their side, and if they can gain two more, which is very likely, Mr. Jefferson will receive his instructions at once.

I have had this conference only a few hours before the departure of the packet; it is possible that the passion of the delegates who spoke with me may have led them to exaggerate some details. I shall be careful to animadvert in the future upon any points which appear to me susceptible of correction, without losing sight of the reserve and circumspection which you have enjoined upon me.

Vergennes to Otto, Versailles, 25 August, 1786.

I have received the despatches which you have taken the pains to write to me from Nos. 34 to 52 inclusive.

The Americans, it appears, are caught by the commerce with India, and are using very costly measures to engage in it. I confess I cannot

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conceive how they propose to carry on a commerce which is only possible with cash, in regard to which America is in the greatest state of penury. Pray tell me how the Americans explain this enigma.

The remarks in America on the occasion of the piracies that some American ships have met with in the Mediterranean merit nothing on our part but contempt, but it is astonishing that congress does not think itself bound by a sense of delicacy to put an end to that by making known the support that the king gives to the American commissioners who are negotiating in Algiers and in Morocco, and the treaty which has been signed in the latter place with its regency. The publication of this treaty [1] would be the best refutation that could be made to the falsehoods circulated in the public journals, but it is not for us to take this pains.

Mr. Jefferson has sent me a note in which Mr. Jay seeks to justify the delay of the ratification of the consular convention. I think I may dispense with any analysis of this note. I merely observe that congress, having found time to ratify its treaty with the King of Prussia, might also have found it to ratify the convention in question.

Pray, make this remark to Mr. Jay, premising, however, that you have no orders to renew your demands; that, on the contrary, you are charged to declare that we shall very tranquilly await the pleasure of congress in regulating this matter according to the precise language of the treaty of the sixth of February, 1778, which is not yet abrogated. There has never been a question of an exchange of Louisiana for a French possession in the West Indies, and, if it is again mentioned to you, you will formally deny it.

Nothing can be more extraordinary, sir, than the claims of the Americans to the commerce of the isles; on hearing them one would suppose that this commerce is more their property than that of the sovereigns to whom they belong; but, whatever may be the excitement in America, we shall only do what our own interests shall exact.

Monroe to Madison, New York, 30 August, 1786.

Dear Sir: Since my last we have been from day to day upon the business which engaged us when you were here. They carried the repeal by seven states, in the committee of the whole and afterward in the house. We moved to postpone to take into consideration the

[1] This treaty had not yet reached America; this was the first intimation of it.

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plan in conformity with the idea I suggested to you, in which we entered into long reasoning upon the secretary's project, proving, if we were well founded, its futility and disadvantages in many instances, proposing to take the negotiation out of his hands, as to the Mississippi and the boundaries, commit them to our *chargé* at Madrid to agree on principles there, the treaty to be concluded here—that two commissioners be added to him to enter into the treaty, and the three authorized to form also a commercial treaty—to be incorporated together—for which five states voted. Their repeal was afterward carried by seven states only; to-day, additional instructions being added to their proposition for repeal respecting the boundaries, formed with the view of taking in Georgia, were also only carried by seven states. The president reported to-day upon the propositions altogether, that the question was lost; so that it now remains, Will Mr. Jay proceed? and I apprehend he will not. I have availed myself of a few moments to drop you this, and to assure you of my friendship and esteem.

Edward Bancroft to William Fraser, London, 2 Sept., 1786. Ex.

On the subject of American fish-oil it was decided that the oil of the United States should hereafter be admitted into France on the same terms as that of the Hanse towns, who in this particular are the most favored in France, where their oil, as I understand, pays only a duty equal to between three and four pounds sterling.

The great subject of the commerce of the United States and other foreigners with the French West India islands is likely to remain as it was settled by the edict of the 30th of August, 1784.

Monroe to Madison, New York, 3 Sept., 1786. Ex.

I consider the party, especially Jay and the principal advocates, as having gone too far to retreat. They must either carry the measure or be disgraced (as the principal already hath been by the vote of five states), and sooner than suffer this they will labor to break the union. I therefore suspect they have been already (and indeed have too much reason for my suspicions) intriguing with the principal men in these states to effect that end in the last resort. They have even sought a dismemberment to the Potomac, and those of the party here have been sounding those in office thus far; to defeat the measure, therefore, completely, we must follow their movements and counteract them everywhere; advise the leading men of their designs, the purposes

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they are meant to serve, etc., and in event of the worst extremity, prepare them for a union with the southern states. I fear some of those in Pennsylvania will have a contrary affection, but it must be removed if possible. A knowledge that she was on our side would blow this whole intrigue in the air. To bring this about, therefore, is an important object to the southern interest. If a dismemberment takes place, that state must not be added to the eastern scale. It were as well to use force to prevent it as to defend ourselves afterward. I consider the convention of Annapolis as a most important era in our affairs. The eastern men, be assured, mean it as leading further than the object originally comprehended. If they do not obtain that things shall be arranged to suit them in every respect, their intrigues will extend to the objects I have suggested above. Pennsylvania is their object. Upon succeeding or failing with her will they gain or lose confidence. I doubt not the emissaries of foreign countries will be on the ground. In short, I do consider this convention as requiring your utmost exertions, in the change things will infallibly take, as well to obtain good as to prevent mischief. Mr. Randolph will, I hope, devote himself to the public upon this occasion, and not suffer himself to be taken off by his professional pursuits before the convention dissolves. I write you freely, without the cover of cipher, knowing you have not yours with you. Indeed, I fear nothing to the public or myself from a publication, for I am satisfied, if the public were acquainted with the conduct of their unworthy servants, their consequence would be of but short duration. Prevail, I beg of you, on Colonel Mason to attend the convention. It will give him data to act on afterward in the state. Very sincerely, I am your friend.

I have always considered the regulation of trade in the hands of the United States as necessary to preserve the union; without it, it will infallibly tumble to pieces, but I earnestly wish the admission of a few additional states into the confederacy in the southern scale.

[For this extract and more, see Rives, ii. 123–126.]

Otto to Vergennes, New York, 10 Sept., 1786.

The negotiations relating to the treaty of commerce with Spain, of which I had the honor to give you an account in my last despatch, have since been the constant subject of the deliberations of congress. The southern states had vainly flattered themselves that they could detach Pennsylvania and New Jersey from the league of the North;

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they have, however, proposed the mediation of his Majesty and the plan by which New Orleans is designated as a commercial *entrepôt* for all the commodities of the interior. The only change which they made in it consisted in giving full instructions to Mr. Carmichael to open negotiations at Madrid instead of sending Jefferson there.

This project has met serious opposition from the states of the North. As to the navigation of the Mississippi, they remarked that, far from being advantageous to the confederation, it would only serve to separate from the United States all the interior country; that the inhabitants of Kentucky, no longer feeling the necessity of maintaining commercial connections with the maritime states, and having, furthermore, a policy entirely different from that of their neighbors, would only think of rendering themselves wholly independent of congress as of a sovereign body from which they could derive no benefit; that the fertility of those countries would insensibly attract the most industrious inhabitants of the northern states, who would not hesitate an instant to exchange the arid rocks of Massachusetts and of New Hampshire for the smiling plains of the Ohio and the Mississippi; that a limited population spread over an immense surface would weaken the springs of the government, and that anarchy and discord would inevitably arise from this state of affairs; that the policy of congress ought to be to strengthen more and more the maritime states, and to await the time when the surplus of population would flow toward the interior; that, independently of all these motives, care should be taken to avoid exciting the jealousy of the savage hordes which still infest those lands; that a war with one of these perfidious nations, in the present exhausted state of the finances, would be one of the greatest calamities; that the possessions of the United States were already of too great extent, and that their territory ought to be reduced rather than augmented beyond all proportion; that, moreover, the court of Spain did not appear in the least disposed to give up the navigation of the Mississippi; that by insisting on this article would only irritate his Catholic Majesty and render him less disposed to yield on the most essential parts of the treaty. For these reasons it was necessary not only to reject the plan of mediation proposed by the southern states, but to recall the ultimatum which proposed the opening of the Mississippi as a condition *sine qua non*.

Not confining themselves to simple arguments, the delegates of the North at once made a motion to repeal this clause of the ultimatum,

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and to authorize Mr. Jay to conclude with the Spanish minister. Seven states having given their sanction to the change in the instructions, the motion was passed in the form of a resolution.

The five southern states protested against this measure, which they called illegal; they proved that, according to the articles of the confederation, the consent of nine states was necessary to give instructions concerning the conclusion of a treaty; those instructions could not be revoked by seven states only; that a proceeding so extraordinary threatened the total overthrow of the constitution, and that even if Mr. Jay should be able to sign such a treaty with Don Diego de Gardoqui, they would never consent to the ratification of such a treaty; that in regard to the western country it would be useless to insist on the necessity of restricting the territory of the United States; that the fertile plains of the interior would always attract a considerable number of the inhabitants of the different states, and it would be easier to stay a torrent than the constant flow of this population; that everybody knew the restless spirit of a people ever urged on by necessity, and eager to change home and climate; and that the colonists of the rich countries of the West, having no facilities for exporting the surplus of their produce by way of the Mississippi, would finally without fail come to an understanding with England, in order to obtain an outlet by the lakes and the river St. Lawrence.

All these arguments made not the least impression upon the northern delegates; but the position of Mr. Jay becomes very embarrassing. The instructions given by seven states not being constitutional, he cannot conclude his treaty without encountering bitter reproaches from the five southern states, who loudly accuse him of having by all sorts of intrigues directed the actions of the northern delegates, in order not to suffer the negotiation to slip from his hand. They even threaten to displace him, or at least to give him two assistants. On the other hand, this minister cannot refuse to execute the orders of a party of which he is himself the most zealous partisan, without losing his popularity and influence.

Whatever Mr. Jay's conduct may be, it is to be feared that this discussion will cause a great coolness between the two parties, and may be the germ of a future separation of the southern states.

Mr. Gardoqui affects the greatest indifference about these negotiations. Recognising the instability of the American governments, the weakness of congress, and the continual fluctuation of political prin-

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ciples, he sees no necessity of concluding a treaty which his Catholic Majesty can easily do without. He has often said to me that in spite of all the precautions of the government it would be impossible to prevent contraband trade and other disorders which the Americans would not fail to cause; that it was of infinite importance to his court not to encourage establishments on the Mississippi which might one day become neighbors so much the more dangerous for the Spanish possessions, since even in their present weakness they were already conceiving vast schemes for the conquest of the western bank of the river; that the savages would always form the best barrier between the two nations; and that nothing better could be done than to leave matters on their present footing.

I have had the honor thus far of explaining to you merely the ostensible arguments of the two parties; but a long acquaintance with the affairs of this country authorizes me, perhaps, to divine the secret motives of the heat with which each state supports its opinion in an affair which does not appear of enough importance to disturb their harmony.

The southern states are not in earnest when they assert that without the navigation of the Mississippi the inhabitants of the interior will seek an outlet by way of the lakes, and will throw themselves into the arms of England. They know too well the aversion of their compatriots for that power, and the difficulty of conveying heavy cargoes through the rivers which lead to Canada.

But the true motive of this vigorous opposition is to be found in the great preponderance of the northern states, eager to incline the balance toward their side; the southern neglect no opportunity of increasing the population and importance of the western territory, and of drawing thither by degrees the inhabitants of New England, whose ungrateful soil only too much favors emigration.

Rhode Island, especially, has already suffered considerably from the new establishments of Ohio, and a great number of families daily leave their homes to seek lands more fertile and a less rigorous climate.

This emigration doubly enfeebles New England, since on the one hand it deprives her of industrious citizens, and on the other it adds to the population of the southern states.

These new territories will gradually form themselves into separate governments; they will have their representatives in congress, and will augment greatly the mass of the southern states.

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All these considerations make evident to the delegates from the South the necessity of promoting by all sorts of means their establishments in the West, and from this point of view a treaty with Spain appears to them most desirable. But if this treaty contains only stipulations in favor of the northern fisheries, far from strengthening themselves against the too great preponderance of the northern states, they would furnish them with new arms, by increasing their prosperity and the extension of their commerce.

The conduct of this thorny negotiation is in the hands of Mr. Jay. I am, etc.

Van Berckel to the States General, New York, 12 Sept., 1786. Ex.

Most of the states have issued paper money, which has caused the greatest discords, as is evident from the report that I made your H. M. in regard to the state of Rhode Island, where the dissensions have risen to such a height that the governor has been obliged to call together the general assembly for the purpose of restoring quiet. In the state of South Carolina the planters have, in the most solemn manner, bound themselves together to uphold the credit of the paper money of their state, to receive it at par with gold and silver, and to make no discount for payments in hard money; but all this does not hinder a considerable depreciation. In the state of Massachusetts, which has always distinguished itself by the wisdom of its measures, the fire of discord begins also to kindle; and the people have even assembled in a tumultuous manner and forcibly hindered the sitting of their court.

Monroe to Madison, Philadelphia, 12 Sept., 1786.

Dear Sir: I arrived here a few days since to press on the legislature of this state a separation of the impost from the supplementary funds. I have the most satisfactory evidence they will reject the proposition. We proceed, therefore, further merely to discharge our duty. Both parties are united in opposition to it. To-morrow we shall be received by the legislature. I am sorry I came on the business. Before this you have received my letter informing you of the subsequent progress and final close of the business which lately engaged us in congress, or rather so far as it depended on their direction. By agreement nothing was to be done in it until our return. I expect to set out back in a day or two. It will depend much on the opinion

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of Jersey and Pennsylvania as to the movements of Jay; and that of Jersey much on that of Mr. Clark, now with you at Annapolis. He put Hornblower in congress, and may turn him out again, for he has no positive weight of his own. Clark has always been anxious for taking the western lands from us. I should suppose him inclined to turn it to the best account. I conclude, therefore, that if he knows the delegation, especially his part of it, pursue a system of policy so contrary to his own and to what is in effect the interest of his country, he would dismiss Mr. Hornblower. Perhaps you may be able to hint to Mr. Clark that Jersey, except Symmes, was with the eastern states upon this occasion. Mr. Henry, of the Maryland delegation, has referred Mr. Stone to you for information upon this subject, by my request. Mr. Stone is my friend, and a very upright, sensible man. You will show him what part of my letters you find necessary. The ablest men here believe and act on it in the rejection of the proposition that the refusal to separate the two parts of the system endangers the government, and that it will most probably induce a change of some kind or other. It is well for the southern states to act with great circumspection and to be prepared for every possible event; to stand well with the middle states especially. I sincerely wish you to suffer no anxiety and to put yourself to no inconvenience upon our private affair. I have no occasion for the money until about the fifth or tenth of October, to help to remove me to Virginia; and even then it will be in my power to do without it with tolerable convenience if you should find it inconvenient to command it. Believe me, it will put me to no inconvenience. My engagements are but few, and those within my control. Let me hear from you as often as possible. Remember me to Colonel Tucker and his lady, to the rest of your colleagues, and to Mr. Stone, and believe me, sincerely, your friend and servant, etc.

Colonel Grayson came with me in the interval to relax from business and meet his lady here. She is with him, but unfortunately he is afflicted with an extraordinary disease. The physicians differ in the name. He is often delirious—is afflicted with strange fancies and apprehensions; in the morning he is better than in the latter end of the day and night, at which time his infirmity rages. It is supposed by some to be the floating gout. Shippen calls it a bilious affection of the nerves. The very close attention he hath lately paid to business, with the laborious exercise of the mind and the want of that

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of the body, I fear, hath given birth to it. To-day he hath been better than heretofore.

Otto to Vergennes, New York, 20 Sept., 1786.

The want of energy in the separate government of the states had till now occasioned few commotions injurious to the repose and to the security of the citizens, and it was hoped that congress would insensibly take the stability that was supposed to be observable in the interior organization of the states; but the licentiousness of a greedy populace has just shaken the basis of the government, which had hitherto been regarded as the most solid and the most perfect of the whole confederation, and it is seen too late that the American constitutions, so generally admired, are far from being exempt from defects.

The common people of Massachusetts, indignant at not having obtained the emission of paper money, ran together in several districts, with arms in hand, to suspend the courts of justice and to prevent the recovery of debts. Governor Bowdoin having neglected instantly to assemble the militia, the insurgents went so far as to disperse the judges and the advocates. They demanded with loud cries the abolition of courts of justice, the holding of the sessions of the legislative assembly in any other town but Boston, the reduction of salaries granted to public officers, a new emission of paper money, the liberation of those imprisoned for debt, the settlement of the accounts of the United States, the prohibition of every object of luxury imported from abroad, the diminution of taxes, the absolute liberty of the press, and the abolition of the senate or upper chamber.

This last article attacks the very basis of the constitution, and tends to establish, after the example of Pennsylvania, a perfect democracy.

The courts of justice are at present protected by troops, and by several companies of artillery. Congress being informed that the seditious had drawn near to Springfield, and that the arsenals of the United States were in danger, General Knox, minister of war, received orders to go there immediately and to order a respectable corps of militia to march there. The proclamation of the governor of Massachusetts, the circular letters of the town of Boston, and other principal towns, the proceedings of the different municipal assemblies, and the measures taken by the seditious to disperse the courts of justice, are to be found in the gazettes that I have the honor to send you. To these details I will only add the reflections of the most enlightened

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patriots on this factious event. They perceive that in forming the different constitutions they had too great need of the assistance of the common people not to grant to them much more than the repose of the republic, the security of the citizen, and the energy of the government can sustain; that an entire and unlimited liberty is a phantom which has never been able to exist but at the expense of public tranquillity; that the theory of the three powers equally distributed is sublime, but that practice offers a thousand difficulties which ought to have been foreseen; that the executive power is much too weak in America; that the simplicity of the chiefs renders them contemptible in the eyes of the multitude, which judges only by the senses, and that there is need of strokes of authority, of arms, and of lictors, to make the government respected. These principles are confirmed by a scene like that in Massachusetts which took place in New Hampshire. About three hundred mutineers met near Exeter, to break up the court of justice; but Governor Sullivan, a distinguished officer during the war, instantly put himself at the head of the militia, dispersed the insurgents, and dispersed the chiefs of the revolt. The people of Connecticut have equally made some efforts for the abolishment of debts and breaking up the courts of justice, but the vigilance of the governor has thus far prevented any overt act. It must be agreed that these insurrections are in a great part due to the scarcity of specie. In the small state of Connecticut alone more than five hundred farms have been offered for sale to pay the arrears of taxes. As these sales take place only for cash, they are made at the very lowest price, and the proprietors often receive not more than one tenth of the value. The people feel the deadly consequences of this oppression, but, not being able to discover its true cause, it turns upon the judges and the lawyers. In the states which have paper money the rigor of the laws is less desolating for the farmer, since he can always get paper enough to satisfy his engagements; and, besides, the creditors are less urgent. These details prove but too much the inability of the United States to fulfil at this time their engagements to France. Not only congress has not power to collect sums called for in its different requisitions, but the separate states are deprived of the vigor necessary to constrain their citizens, and they themselves have not the means of paying in specie the moderate taxes which are imposed on them. The exhaustion of the federal treasury is carried to an inconceivable point. It has not been possible to pay me several infinitely small pittances due to French

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officers. The assembly of Pennsylvania, wishing to transmit to posterity the testimony of its gratitude for the services which the Chevalier de la Luzerne has rendered to the union, has just given his name to a new county.

Monroe to Madison, New York, 29 Sept., 1786.

DEAR SIR: Since my last it has been proposed that each delegation be at liberty to communicate to the legislature of the state to which they belong the projects of Mr. Jay and the proceedings of congress thereon, and negatived. The journal has been handed to Mr. Jay. As yet he has said nothing, nor have we information what course he means to take, except from those here in his party, who affirm he will proceed. I wrote some weeks since to Colonel Mason upon this subject, at the time I wrote Governor Henry, but have received no answer from him, from which circumstance, as well as that of R. H. Lee's being in the opposite sentiment, there is room to conjecture he is not with us. R. H. L., I conclude, has been influenced by Arthur, who has been intriguing on the other side to serve his own purposes, and leaving the business of the treasury board to Billy Duer. Bland is also in the assembly, so that possibly the party in favor of this project may have advocates with us. I hope Colonel Grayson hath recovered. Be so kind as to make my best respects to himself and lady, and believe me your friend and servant, etc.

Henry Hill to Washington, Philadelphia, 1 Oct., 1786. Ex.

I lately had the pleasure of hearing Mr. King's harangue to our assembly on the subject of the commission with which he and Mr. Monroe were charged by congress. It was truly, to the best of my judgment, adapted to insure applause even from an Attic audience.[1] Virginia appeared in the most advantageous light. Should her liberal support of the union be withdrawn, and Pennsylvania refuse hers, he represented with wonderful effect what would become of our state regulations, of the renown of our heroes and patriots; they would all be swept away and utterly lost.

The impression made on the house in favor of the point "supplicated" was remarkably though tacitly confessed, and had the mem-

[1] J. P. Brissot, Nouveau Voyage, i. 170, says of King: "M. King, que je vis à ce dîner (chez Hamilton), passait pour l'homme le plus éloquent des Etats-Unis. Ce qui me frappa dans lui, c'était sa modestie. Il parassait ignorer ce qu'il valait."

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bers individually been questioned on the spot whether the impost should be granted without reserve, no one doubts it would have succeeded. They chose, however, on cool deliberation to refer the important business to the next assembly. Whether or not such a measure is practicable appears very doubtful.

Mr. Temple to Lord Carmarthen, New York, 4 Oct., 1786. Ex.

My Lord: In my letter No. 5, of the ninth of April, I took the liberty of offering my sentiments briefly to your lordship upon the then prospect of public affairs in these states, and mentioned that I thought the necessary supplies for the support of government and to pay the interest only of their public debt would soon be found too great and weighty for these people to bear; that period is now approaching fast. Mobs, tumults, and bodies of men in arms are now on tiptoe in various parts of this country, all tending to the dissolution of not only what is called the supreme power (congress) but to bring into contempt and disregard the legislatures and governments of the several states. At this hour, while I am writing, I have undoubted intelligence that at Springfield (a county town in the state of Massachusetts) more than fifteen hundred men in arms are there assembled to stop the proceedings of the courts of justice until the constitution of government be altered and reformed to their approbation! and that about one thousand militia (horse and foot), by order of the governor, are there also assembled to support government against the said insurgents! In the mean time the governor of that state hath, by special proclamation, called the legislature to meet as upon last Thursday; and upon the proceedings and doings of that legislature it seems to depend whether or not arms shall decide the matter between the contending parties! Public affairs are much the same in the state of New Hampshire. The whole legislative body of that state were, for four hours, prisoners in the hands of a tumultuous assembly in arms! Indeed, dissatisfaction and uneasiness prevail more or less throughout this country; the greater part of the people poor, and many in desperate circumstances, do not, it seems, want any government at all, but had rather have all power and property reduced to a level, and it is more than probable that general confusion will take place before any permanent government be established in this unhappy country. Perhaps, in the hour of their confusion and distress, some or all of the states may seek for European friendship, counsel,

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and advice; if they do, my most hea
lead them to look up to that soverei
belonged, and who only, of all sover
have any unfeigned regard for their re
voice and my utmost influence in this
dence, shall steadfastly and faithfully c

Otto to Vergennes, New Y

My Lord: The commissioners appoi
pose a general plan of commerce, and t
necessary to execute it, assembled at A
month. But five states alone being rep
best to enter into the main question, a
dressing to congress and the different le
acterizes the present spirit of the politic

In translating this report I have not
it into French, but to render it intelligi
give to the original an obscurity which
difficulty, but which the strong and enl
to turn to account.

For a very long time, my lord, the n
federal government more energy and vi
also been felt that the excessive indepen
as regards the states, and to the states as
to individuals for them to be deprived of

The people are not ignorant that the n
crease of power in the government wou
taxes, a strict administration of justice,
ports, rigorous executions against debtc
ponderance of rich men and of large prop

It is, however, for the interest of the pe
sible the absolute freedom granted them
was known but necessity, and when an E
the foundations of the political constituti

In those stormy times it was necessary t
to emanate only from the people; that e
supreme will, and that the magistrates we

Although there are no nobles in Americ
nominated "gentlemen," who, by reason of

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their education, their families, or the offices they hold, aspire to a pre-eminence which the people refuse to grant them; and, although many of these men have betrayed the interests of their order to gain popularity, there reigns among them a connection so much the more intimate as they almost all of them dread the efforts of the people to despoil them of their possessions, and, moreover, they are creditors, and therefore interested in strengthening the government, and watching over the execution of the laws.

These men generally pay very heavy taxes, while the small proprietors escape the vigilance of the collectors.

The majority of them being merchants, it is for their interest to establish the credit of the United States in Europe on a solid foundation by the exact payment of debts, and to grant to congress powers extensive enough to compel the people to contribute for this purpose. The attempt, my lord, has been vain, by pamphlets and other publications, to spread notions of justice and integrity, and to deprive the people of a freedom which they have so misused. By proposing a new organization of the federal government all minds would have been revolted; circumstances ruinous to the commerce of America have happily arisen to furnish the reformers with a pretext for introducing innovations.

They represented to the people that the American name had become opprobrious among all the nations of Europe; that the flag of the United States was everywhere exposed to insults and annoyance; the husbandman, no longer able to export his produce freely, would soon be reduced to extreme want; it was high time to retaliate, and to convince foreign powers that the United States would not with impunity suffer such a violation of the freedom of trade, but that strong measures could be taken only with the consent of the thirteen states, and that congress, not having the necessary powers, it was essential to form a general assembly instructed to present to congress the plan for its adoption, and to point out the means of carrying it into execution.

The people, generally discontented with the obstacles in the way of commerce, and scarcely suspecting the secret motives of their opponents, ardently embraced this measure, and appointed commissioners, who were to assemble at Annapolis in the beginning of September.

The authors of this proposition had no hope, nor even desire, to see the success of this assembly of commissioners, which was only intended to prepare a question much more important than that of commerce.

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The measures were so well taken that at the end of September no more than five states were represented at Annapolis, and the commissioners from the northern states tarried several days at New York, in order to retard their arrival.

The states which assembled, after having waited nearly three weeks, separated under the pretext that they were not in sufficient numbers to enter on business, and, to justify this dissolution, they addressed to the different legislatures and to congress a report, the translation of which I have the honor to enclose to you.

In this paper the commissioners employ an infinity of circumlocutions and ambiguous phrases to show to their constituents the impossibility of taking into consideration a general plan of commerce and the powers pertaining thereto, without at the same time touching upon other objects closely connected with the prosperity and national importance of the United States.

Without enumerating these objects, the commissioners enlarge upon the present crisis of public affairs, upon the dangers to which the confederation is exposed, upon the want of credit of the United States abroad, and upon the necessity of uniting, under a single point of view, the interests of all the states.

They close by proposing, for the month of May next, a new assembly of commissioners, instructed to deliberate not only upon a general plan of commerce, but upon other matters which may concern the harmony and welfare of the states, and upon the means of rendering the federal government adequate to the exigencies of the union.

In spite of the obscurity of this document, you will perceive, my lord, that the commissioners were unwilling to take into consideration the grievances of commerce, which are of exceeding interest for the people, without at the same time perfecting the fundamental constitution of congress.

It is hoped that new commissioners will be appointed, with ample powers to deliberate on these important objects, and to place congress in a position not only to form resolutions for the prosperity of the union, but to execute them.

Monroe to Jefferson, New York, 12 Oct., 1786. Ex.

I set out to-morrow for Virginia with Mrs. Monroe by land. My residence will be for the present in Fredericksburg. My attention is turned to Albemarle for my ultimate abode. The sooner I fix there

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the more agreeable it will be to me. I should be happy to keep clear of the bar if possible, and at present I am wearied with the business in which I have been engaged. It has been a year of excessive labor and fatigue, and unprofitably so.

H. Lee, Jr., to Washington, New York, 17 Oct., 1786. Ex.

My dear General: In my last letter I detailed the eastern commotions and communicated my apprehensions of their objects and issue. G. Knox has just returned from thence, and his report, grounded on his own knowledge, is replete with melancholy information.

We are all in dire apprehension that a beginning of anarchy with all its calamities has approached, and have no means to stop the dreadful work. Individuals suggest the propriety of inviting you from congress to pay us a visit, knowing your unbounded influence, and believing that your appearance among the seditious might bring them back to peace and reconciliation.[1]

David Stuart to Washington, Richmond, 8 Nov., 1786. Ex.

Dear Sir: You will learn the issue of this from the enclosed note.[2] The strong language in which this offspring of iniquity is condemned will, it is hoped, have some operation on future legislatures, and by banishing the idea of it from among the people be the means of encouraging industry and economy, the true sources of public happiness. From a conception that the vote on this subject might have some effect on the policy of other states where the measure is not yet adopted, the printer was ordered to publish it, with a request to the printers throughout the continent to do the same.

As a further proof of the high regard which seems at present to prevail for the preservation of national faith, I have to inform you that an attempt to reduce the certificates by a scale has been unanimously rejected.

The ease with which these two bugbears have been removed give me a hope that a similar propriety will characterize all the proceedings of the present assembly.

You have, no doubt, heard that the attorney [Edmund Randolph]

[1] This is from the letter to which Washington, on the thirty-first, in part replies: "You talk, my good sir, of employing influence to appease the present tumults in Massachusetts. I know not where that influence is to be found, or, if attainable, that it would be a proper remedy for the disorders. Influence is no government."

[2] Resolutions condemning paper money.

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was a candidate for the chief magistr
a senate before yesterday, the election
congress was made. The attorney w
The other candidates were R. H. Lee
gates to congress are Messrs. Madis
Lee, and Joseph Jones. Colonel Lee,

From the progress made to-day in
empowering commissioners to meet for
taxes on imported articles with the stat
nia, and the other agreeable to the reco
ers at Annapolis, there can be little do

The subject of the latter commission-
the confederation—is important and del
From some conversation with Mr. Ma
reason to think you will be requested to

D. Humphreys to Washington, New

In Massachusetts the assembly of tha
ing all the real subjects of hardship an
wise passed a new riot act, and given
support of government. But still the
arrangements on the part of the mob d
seen by the speech of Mr. King before t
consider themselves as the guarantees of
bound to interfere in its support under c

Otto to Vergennes, New York,

The resolutions of the convention of
honor to communicate to you, have a
Virginia. The other states are little d
system of confederation, and congress a
itself the right of proposing the changes
union. With this view it has appointed
of a member from each state, to submit t
the old system.

Washington to Thomas Johnson,

The want of energy in the federal gove
state and parts of states against another;

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the eastern people, have sunk our national character much below par, and have brought our politics and credit to the brink of a precipice. A step or two more must plunge us into inextricable ruin. Liberality, justice, and unanimity in those states which do not appear to have drunk so deep of the cup of folly may yet retrieve our affairs, but no time is to be lost in essaying the reparation of them.

Washington to David Stuart, 19 Nov., 1786. Ex.

However delicate the revision of the federal system may appear, it is a work of indispensable necessity. The present constitution is inadequate; the superstructure is tottering to its foundation, and without helps will bury us in its ruins. Although I never more intended to appear on a public theatre, and had in a public manner bid adieu to public life, yet, if the voice of my country had called me to this important duty, I might, in obedience to the repeated instances of its attention and confidence, have dispensed with these; but an objection now exists which would render my acceptance of this appointment impracticable with any degree of consistency.

Washington to Edmund Randolph, 19 Nov., 1786.

Dear Sir: It gave me great pleasure to hear that the voice of the country had been directed to you as chief magistrate of this commonwealth, and that you had accepted the appointment.

Our affairs seem to be drawing to an awful crisis;[1] it is necessary, therefore, that the abilities of every man should be drawn into action in a public line, to rescue them, if possible, from impending ruin. As no one seems more fully impressed with the necessity of adopting such measures than yourself, so none is better qualified to be entrusted with the reins of government. I congratulate you on this occasion, and, with sincere regard and respect, am, etc.

William Grayson to Monroe, New York, 22 Nov., 1786. Ex.

Colonel Lee has heard of his being left out of the delegation, and is far from being pleased at the circumstance; I own I am surprised at R. H. Lee's being continued, when he did not serve a day last year;

[1] Washington's words reappear in Governor Randolph, of Virginia, to President Dickinson, of Pennsylvania: "Richmond, Dec. 1, 1786. Sir: I feel a peculiar satisfaction in forwarding to your Excellency the enclosed act of our legislature. As it breathes a spirit truly federal, and contains an effort to support our general government, which is now reduced to the most awful crisis, permit me to solicit your Excellency's co-operation at this trying moment." —Penn. Archives, 1786–1790, 523.

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had Colonel Lee been continued instead of him, all would have been right; he is preparing to return to Virginia. I wish that R. H. Lee may resign, and he be elected in his room.

The disturbances in Massachusetts bay have been considerable, and absolutely threaten the most serious consequences. It is supposed the insurgents are encouraged by emissaries of a certain nation, and that Vermont is in the association. How it will end, God only knows; the present prospects are, no doubt, extremely alarming.

The Massachusetts delegation have been much more friendly, I have understood, since the late insurrection in their state. They look upon the federal assistance as a matter of the greatest importance; of course, they wish for a continuance of the confederation. Their general court is now sitting, but, I believe, are fearful of taking any vigorous steps against the insurgents.

Mr. King sets out from this next week to meet the New York and the other of the Massachusetts commissioners, to effect a compromise respecting the latter against the former. It seems they have got unlimited powers on both sides. I remain, with great sincerity, your affectionate friend, etc.

George Wythe to Jefferson, Williamsburg, 13 Dec., 1786. Ex.

I think him[1] sensible and discreet, and in a fair way of being learned —to which one great encouragement, both of him and many others of our youth, is the specimen of its utility which they admire in one of their countrymen in another quarter of the globe. His Notes on Virginia, whatever he writes, says, or thinks, is eagerly sought after, and this not by youth alone. His sentiments are most earnestly desired on the grand subject of the enclosed act by the oldest (except one) of the commissioners appointed by it, who supposes that he cannot be directed so well by any other luminary. You must have advanced money for me. Let me know the amount, and whether, by a draft on a merchant in London, or in what other manner I shall discharge it. On these terms (but not else) I wish you to send to me Polybius and Vitruvius. Adieu.

Monroe to Madison, Spring Hill, 16 Dec., 1786. Ex.

Have you heard anything from the other states? Do they take correspondent measures with our legislature upon federal subjects?

[1] Peter Carr, the orphan nephew of Jefferson.

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Edward Carrington to Madison, New York, 18 Dec., 1786. Ex.

The re-election of Colonel Lee has afforded me the highest pleasure, as it undoubtedly relieves his feelings, but I am at the same time deeply affected by the loss of Mr. Jones from the delegation.

I cannot learn that Mr. Jay is proceeding in the business of the Mississippi. He probably will wait to see the countenance of the new congress. If he can assure himself of the cover of a bare majority, I believe he will make the treaty, and rely upon the timidity of some of the dissenting states for the ratification. It is probable the eastern column will be broken in Jersey and Pennsylvania, and it is equally so that there will be a change in some of the southern states.

The business of the convention is well brought forward by Virginia, and I hope their act will be generally adopted. The dereliction of Massachusetts is, however, to be apprehended. The delegation of that state prevented the recommendation of the measure from congress, as suggested by the deputations at Annapolis, and advised its non-adoption in their legislature. The effect of this advice I have not been informed of, but the natural supposition is that nothing was done in the late session, and there will not be another before the time proposed for the convention of the deputies. The reasons given by these gentlemen for their opposition are that the mode of amending the confederation is provided by the act itself. Amendments are to originate with congress and be agreed to by the states, and that it would derogate from the dignity and weight of that body to take a secondary position in the business. This is an elevated idea, and in an efficient sovereignty would be a wise one. The truth is, we have not a government to wield and correct, but must pursue the most certain means for obtaining one. We have only four states now on the floor.

D. Stuart to Washington, 19 Dec., 1786. Ex.

Dear Sir: I need not, I suppose, inform you of your being appointed to the convention to be held at Philadelphia. It appeared to be so much the wish of the house, that Mr. Madison conceived it might probably frustrate the whole scheme if it was not done. As it was, however, intimated that, from many circumstances in your situation, it might be impossible for you to attend, you will have a fair opening for an excuse, if at the time you should still think it inconvenient, or incompatible with what has happened respecting the soci-

ety of the Cincinnati. The original ir
and its present tottering state, may pe
selves in such a point of view as to su
dear sir, with great respect, your affec

George Wythe to Jefferson, Wil

Lest a letter which a few days ago l
to your hands, I now write this to en
your thoughts on the confederation of
proposed to be revised in the summer:
letter that Peter Carr was attending
moral philosophy and mathematics, les
languages, and with me reading Her
Horace, and that I wished to know
would recommend any other. Farewe

D. Stuart to Washington,

I have no doubt but Mr. Madison's
necessary that he should be in congress
see I shall dread the consequences of ar

From Monthly Reports to the British

The following account has been take
of the three undermentioned states of
from the twenty-first November, 1785,
1786:

	British vessels.		French vessels.		Spanish vess	
	No.	Tonnage.	No.	Tonnage.	No.	Tonna
Philadelphia...	94	12,432	13	1,122	37	85
New York.....	81	9,347	20	2,218	8	78
South Carolina.	172	17,163	14	1,984	37	1,25
Total.....	347	38,942	47	5,324	82	2,88

Great Britain has nearly eight times
ports as France.

Washington to Jabez Bowen,

I have been long since fully convince
to congress more ample and extensive

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possess; the want of power and energy in that body has been severely felt in every part of the United States. The disturbances in New England, the declining state of our commerce, and the general languor which seems to pervade the union, are in a great measure (if not entirely) owing to the want of proper authority in the supreme council. The extreme jealousy that is observed in vesting congress with adequate powers has a tendency rather to destroy than confirm our liberties. The wisest resolutions cannot produce any good unless they are supported with energy; they are only applauded, but never followed.

Paper money has had the effect in your state that it ever will have, to ruin commerce, oppress the honest, and open a door to every species of fraud and injustice.

The death of our worthy friend, General Greene, must be sincerely regretted by every friend to America, and peculiarly by those whose intimacy with him gave them a full knowledge of his virtues and merits.

Lord Dorchester to Lord Sydney (secret), Quebec, 16 Jan., 1787.

My Lord: The military preparations in the United States, with the measures taken to form magazines along the frontier of Virginia, and as far as to Saratoga, their leading men say, are intended to reduce the Indians. Probably the disorders in the Massachusetts, and neighboring states, are another object of these arrangements. I at the same time cannot but apprehend the upper posts are also comprised in their plan for the campaign; the measure would be popular among them.

The weak situation of these posts—more particularly Fort Ontario, near Oswego—seems to invite an insult; the strongest of them depend on the savages for protection, and these, having neither national bands nor subordination of any sort, cannot have that firmness necessary for great confidence.

Should this apparent storm blow over without injury, and the wisdom of his Majesty's council determine to maintain these posts, a considerable expense must be incurred to put the works in a proper state of defence; and a considerable reinforcement should be sent up, which will not only increase the transport, but add to the expense also. Fort Ontario, in this juncture, in place of the present garrison of fifty men, should have a battalion, to enable them to hold out till succor might arrive to them from the province; and these succors must, in a great measure if not wholly, be drawn from the militia, when it is so arranged

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as to enable us to employ it. Should
these posts, the states will immediately
enough against Indians, with a commu
will greatly facilitate the reduction o
many reproaches; at the same time we
trade, and open a door for much smugg

Should it be judged advisable to r
forts to be destroyed, the disadvanta
retarded.

The most injudicious of all is *a no re*
potent state, and yet holding those place
bors, who have set their hearts upon t
will certainly assault them if left in thei

I must, therefore, request your lord
honor me with the king's commands on t
esty's pleasure may be, should the upper

D. Humphreys to Washington, New

I have lately had an opportunity of c
first characters from the neighboring st
Messrs. Duane, Chancellor Livingston,
Haring, and Smith, from New York, with
and Judge Sullivan, from Boston—were
boundaries between the two states. Th
that something must be done, but what
to baffle their deepest penetration. It
that Mr. King, Mr. Sedgwick, and seve
say John Jay), who have been mortall
now look with considerable confidence t
preservation.

Mr. Trumbull, Mr. Barlow, and mysel
of pieces in prose and verse on political
tion to find that they are reprinted in m
avidity than any other performances.
of more efficacy than serious argumenta

T. Stone to Washington.

DEAR SIR: The senate and house of
differed upon the subject of issuing pap

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ter having appealed to the people, I take the liberty of enclosing you the papers of each house, and, if not disagreeable, I shall be much obliged by a communication of your sentiments upon a subject which is likely to create great and perhaps dangerous divisions in the state, and am, with perfect esteem, etc.

Address of the Maryland Senate to the House.

An act of the commonwealth of Virginia, for appointing deputies to meet at Philadelphia in May next, for revising the federal government and correcting its defects, was early communicated to this legislature. In consequence thereof, your house proposed to appoint deputies, which we acceded to, and a conference took place to ascertain the powers to be given to the deputies. A report was made by the conferrees, which has been agreed to by the senate.

As this proposition originated with you, and the measure is confessedly necessary and important, we are not a little surprised that you have resolved to adjourn without making this appointment. Although it may be urged that this deputation may be made at the session proposed by your house to be held in March next, time enough for the deputies to meet at Philadelphia in May, yet it must be obvious that the other states, perceiving that the legislature of this state has adjourned without making the appointment, may conclude that the measure has not met their approbation. This inference may create suspicions destructive of that unanimity which is admitted by the wisest and best men in the United States to be absolutely necessary to preserve the federal union.

The neighboring states of Virginia and Pennsylvania have discovered their sense of the importance of this meeting, and their expectation of its effects, by appointing some of their first characters to assist in the deliberations.

We cannot account for your postponing the consideration of these great and interesting subjects, and your adjournment to the twentieth of March, unless it be to appeal to the people upon the bill for an emission of paper money, which we rejected.

Otto to Vergennes, New York, 10 Feb., 1787. Ex.

The new congress was formed but a few days since, and proceeded at once to the election of a president. The choice was very difficult; the southern party wished a member from Carolina or Georgia to be

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chosen, while that of the north insiste
from New Hampshire. The votes fina
clair) St. Clair, delegate from Pennsyl
known by his defeat at Ticonderoga.
federal, and is sincerely attached to us,
the war along with the command of th
is a friend of Franklin, which is sufficie
tions toward France; furthermore, I h
particularly close relations with him.

But if foreign affairs, my lord, are su
must not be inferred that congress ha
peace.

The various departments have been
manner; a regular system has been int
of the general administration, and, but
revenues, the United States would be
governments. The department of forei
are in the hands of trusty and capable
and circumspection will stand every test.
served than during the war. It is espe
ferent branches of the department of
ingeniously that the slightest malversa
fine structure is, unfortunately, useless o
the treasury.

I cannot instance a better proof of th
cers than in observing that General Wa
with quite a large fortune, and who has
of increasing it, finds himself so much
himself to cultivate his farm. I have b
ored man in which he complains of bei
twenty for one, the certificates (les con
him in payment for the arrearages due h

Mr. Jefferson is for us in Virginia wh
Pennsylvania—that is, the most indefa
The delegates from that state treat me
and they are at pains to inform me o
directly or indirectly interest the sul
national importance.

It is chiefly by his private correspo

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deavors to preserve in America the sentiments of gratitude which many of his colleagues in Europe have taken so great pains to suppress. I am sure that recognition of his services which you may show to him will produce the best effect, and that he will not fail to communicate it to his constituents. All the measures taken in France in favor of American commerce have an immediate influence on the minds of the legislatures, and every sacrifice on our part is at once reciprocated by a compensation.

Washington to Mrs. Mary Washington, 15 Feb., 1787. Ex.

HONORED MADAM: I have now demands upon me for more than five hundred pounds, three hundred and forty odd of which are due for the tax of 1786; and I know not where, or when, I shall receive one shilling with which to pay it. In the last two years I made no crops. In the first I was obliged to buy corn, and this year have none to sell, and my wheat is so bad I can neither eat it myself nor sell it to others, and tobacco I make none. Those who owe me money cannot or will not pay it without suits, and to sue is like doing nothing, whilst my expenses, not from any extravagance, or an inclination on my part to live splendidly, but for the absolute support of my family and the visitors who are constantly here, are exceedingly high—higher, indeed, than I can support without selling part of my estate, which I am disposed to do rather then run in debt or continue to be so; but this I cannot do without taking much less than the lands I have offered for sale are worth. This is really and truly my situation.

Mrs. Washington, George, and Fanny join me in every good wish for you, and I am, honored madam, your most dutiful and affectionate son, G. WASHINGTON.

Otto to Vergennes, New York, 16 Feb., 1787.

MY LORD: By a table of the navigation of the state of New York it appears that the English vessels arriving during the past year amount to sixty-seven, while only seven have come from France. This great disproportion is due in part to the fact that the English do not admit to their islands any American ships, and that they themselves carry on the commerce in live stock and lumber which the United States furnish to their Antilles.

It is nevertheless true that Great Britain maintains direct commercial relations, and, to a large extent, with America.

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Combining, my lord, the language of Sir John Temple with all that daily passes before my eyes, I cannot refrain from the belief that the English ministry shows itself so tenacious with regard to the commerce of their islands, and maintains its navigation act so strictly, only that it may at some time secure for itself a favorable treaty with the United States. This time will come when congress shall have received by an unanimous vote the power of regulating commerce. The more closely England shall have adhered to its exclusive system, the more it will be able to take advantage of the sacrifices which it shall make and be more urgent in regard to compensation for them. The revolutions which are occurring daily in the commercial policy of Europe are a proof to us of the possibility of such an event.

The commerce of the United States is of too great importance for England to neglect the means of gaining almost exclusive control of it. By conceding to the United States, all at once, the right of furnishing breadstuffs to its Antilles, and to export sugar, a necessary article of consumption in these states, she will be able to place a very high price on a sacrifice which will be the more sensibly felt, since it will be sudden and unexpected. Extraordinary favors will be the natural result of this, and the allies of the United States cannot complain, since these favors will not have been gratuitous, and, consequently, will not extend to the nations who have concluded commercial treaties with the United States.

England cannot be ignorant that her act of navigation is at this moment very unfavorable to the Antilles. Her colonies are seldom supplied with provisions, while ours have in abundance all that is necessary for their subsistence, and furnish very often to the English the surplus of their cattle and commodities. However, that power, far from relaxing the execution of her prohibitory laws, excludes all American ships from her ports more strictly than ever. The numerous petitions of the planters are not even taken into consideration by parliament, which seems to fear to grant gratuitously to the United States advantages which it will be able to sell to them at a very high price when the American government shall have the strength necessary for forming and executing resolutions favorable to English commerce. The forts on the lakes, although formally ceded by the treaty of peace, will be another compensation for the benefits which congress will grant to English commerce, and these two baits will render the negotiations of England very easy in America.

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The recent arrangements made in France in regard to the trade in tobacco have given the greatest satisfaction here. Rice becomes henceforth the most important object of our commercial negotiations, not only because it is largely consumed in France, but because Carolina offers a large market for our finer goods as well as for the most common woollen stuffs for the negroes. This object, however, would depend in great part on our present position with regard to the seaports of the Levant.

Lord Dorchester to Lord Sydney, Quebec, 28 Feb., 1787. Ex.

My Lord: The grand council of Indians held near the mouth of the Detroit river have sent to the United States and desired that all hostilities may cease, that deputies from each side may meet in spring to make a peace, and settle a reasonable boundary line, and that in the mean time they would prevent their surveyors and people from crossing the Ohio.

This business despatched, they held a second council at Detroit, the object of which was to desire I would inform them what assistance they might expect from us should the states refuse them a reasonable peace. My letter to the superintendent of Indians will show your lordship what I had already said on this subject, and to this I shall refer them. It has been intimated proposals have been made to congress for the surprisal of the Fort of Niagara. This is scarcely possible, but with the assistance of the Indians of that neighborhood, or after their departure, for which I understand the six nations are preparing with intentions to join the Mohawks at Grand river on the north side of Lake Erie.

This situation of affairs renders it necessary to arrange the militia so that regular corps may be speedily formed therefrom, agreeable to the plan I had the honor to present to your lordship, I think it was in April last. Should I succeed, it will equally strengthen the interests of this country and of Great Britain; if not, our tenure here is very precarious. I can have no doubt of the passing of a bill for this purpose, nor of the good intentions of the legislative council, though I am sorry to say there is not that harmony among them I could wish; this I think of little consequence, but a people so disused to military services for twenty-seven years do not willingly take up the firelock and march to the frontier when their passions are not strongly agitated.

P. S.—Mr. Shays, who headed the Massachusetts insurgents, arrived in this province the twenty-fourth instant with four of his officers.

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Otto to Vergennes, New York, 5 March, 1787. Ex.

The situation of congress with respect to the treaty with Spain becomes more embarrassing from day to day. The inhabitants of Kentucky and of Frankland do not merely insist on the free navigation of the Mississippi, but they threaten to commit hostile acts against the inhabitants of Louisiana unless Spain renounces its exclusive system. Quite recently they stopped two Spanish vessels carrying on a trade with Fort St. Vincent, on the Wabash. "If the Spaniards," they say, "will not permit us to descend the river, we, in turn, will prevent them from ascending it."

They propose to arm ten thousand men, and to make a way for themselves across to the colony of Santa Fé.

Some delegates of New England begin to declare themselves for the opening of the Mississippi. "Although we are persuaded," one of the most moderate among them said to me, "that the regions of the west will by degrees absorb our population, a greater evil—the fear that those vast countries will yield to England in order to obtain from her the protection which we refuse them—leads us to wish for the free navigation of the Mississippi as the only means of keeping them subject to the laws of congress."

Monthly Report to the British Government.

P. A., eighth March, 1787, writes that he has a "mercantile" member of congress with him, whose expenses exceed his income, who would enter into "business" relations with the British "house" on a "liberal plan." Instructions must be particular, in order "that the goods may be packed up in as small a compass as possible." P. A., fifth April, 1787, writes that the member of congress is ready to send "such samples as lays within the line of his business, every packet to be directed to such person as shall be named in England, neither the contents nor the packet am I to be trusted with, he taking on himself to send them, as my detaining one letter would forever put it in my power to ruin him." This M. C. is a delegate from his state to the convention at Philadelphia for forming a new federal union, and P. A. thinks he will be of more service than "half a dozen Temples or Bonds; the first thinks the post beneath him since his being a baronet, and the other knows not anything of the mercantile line; he has been, ever since his arrival here, endeavoring, by the assistance of his friends, to

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get his attainder removed by the interest of that old rascal Franklin."

E. Randolph to Washington, Richmond, 2 April, 1787.

DEAR SIR: Your favor of the twenty-seventh ult. was handed to me this moment. Solicitous as I am for your aid at Philadelphia, I could not prevail upon myself to wish you to go, unless your health would fully permit. But, indeed, my dear sir, everything travels so fast to confusion that I trust one grand effort will be made by the friends of the United States.

There is a decided prospect of a representation, and the board have peremptorily determined not to fill up another vacancy. The members now in nomination are, Mr. Madison, Mr. Mason, Mr. Wythe, Mr. Blair, Mr. R. H. Lee, and myself.

You will oblige me by saying how I shall forward the money to be advanced from the treasury.

You recollect that congress have altered the day of meeting to the fourteenth of May, at which time it is my purpose to take you by the hand. I am, dear sir, your affectionate friend, etc.

Temple to the Marquis of Carmarthen, New York, 5 April, 1787. Ex.

MY LORD: At present the general attention is chiefly turned to what will be done next month at Philadelphia by a convention of the thirteen states, who meet then for the purpose of altering or revising the confederation. Various are the opinions about this same convention. Many think there will be great discord, and the convention break up without doing anything, and in consequence thereof two or three separate congresses for the government of these states be established.

Sydney to Lord Dorchester, Whitehall, 5 April, 1787. Ex.

MY LORD: To afford the Indians active assistance would at the present moment be a measure extremely imprudent, but at the same time it would not become us to refuse them such supplies of ammunition as might enable them to defend themselves. I observe by Colonel Brant's letter that they are in great want of that article, and, circumstanced as they now are, there cannot be any objection to your furnishing them with a supply, causing it to be done in a way the least likely to alarm the Americans, or to induce the Indians to think that there is a disposition on our part to incite them to any hostile proceedings.

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David Ramsay to Jefferson, 7 April, 1787. Ex.

Our governments in the southern states are much more quiet than in the northern, but much of our quiet arises from the temporizing of the legislature in refusing legal protection to the prosecution of the just rights of the creditors. Our eyes now are all fixed on the continental convention to be held in Philadelphia in May next. Unless they make an efficient federal government, I fear that the end of the matter will be an American monarchy, or rather three or more confederacies. In either case we have not labored in vain in effecting the late revolution, for such arrangements might be made as would secure our happiness.

Humphreys to Washington, Fairfield, 9 April, 1787. Ex.

If the difference of opinion among the members of this national assembly should be as great as the variety of sentiments concerning the result, the progress of business before it will be attended with infinite embarrassment. Besides the two primary objects of discussion, viz.: 1st, Whether the old constitution can be supported, or, 2d, Whether a new one must be established, I expect a serious proposal will be made for dividing the continent into two or three separate governments. Local politics and diversity of interests will undoubtedly find their way into the convention. Nor need it be a matter of surprise to find there, as subjects of infinite disagreement, the whole western country as well as the navigation of the Mississippi.

Should you think proper to attend, you will indisputably be elected president. This would give the measures a degree of national consequence in Europe and with posterity. But how far (under some supposable case) your personal influence, unattended with other authority, may compose the jarring interests of a great number of discordant individuals and control events, I will not take upon me to determine.

Otto to Vergennes, New York, 10 April, 1787. Ex.

If all the delegates chosen to this convention at Philadelphia are present, Europe will never have seen an assembly more respectable for talents, for knowledge, for the disinterestedness and patriotism of those who compose it. General Washington, Dr. Franklin, and a great number of other distinguished personages, though less known in

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Europe, have been called thither. No doubt the interests of the confederation will be more thoroughly discussed than ever before.

B. Gale to W. S. Johnson, Killingworth, 19 April, 1787. Ex.

Hon. and Dear Sir: Your opposition to the convention has done you great honor among republicans, and could you adopt this sentiment honestly, that all lands ceded by treaty and all forfeited estates were ceded and forfeited to the whole confederacy, and make a reasonable proposal for the rendering civil process more concise and less expensive, it would render your country eminent service, etc., etc.

R. R. Livingston to Lafayette, New York, 24 April, 1787. Ex.

The population of New York in the last twelve years, notwithstanding the numbers destroyed by the war and the still greater numbers that have left us, has increased 40,000 souls, exclusive of Vermont, which, if taken into the calculation, would carry our numbers from 190,000, which was its greatest extent before the war, to 280,000, as appears by our last census. Few traces remain in the country of the ravages of war: lands are cultivated, houses built, new lands cleared, new sources of commerce opened, and what is the best criterion of the state of trade is that the commodities and labor of the country still bear a better price than they did before the war.

Washington to Major-General Knox, 27 April, 1787. Ex.

Though so much afflicted with a rheumatic complaint (of which I have not been entirely free for six months) as to be under the necessity of carrying my arm in a sling for the last ten days, I had fixed on Monday next for my departure, and had made every necessary arrangement for the purpose, when (within this hour) I am called by an express, who assures me not a moment is to be lost, to see a mother and only sister (who are supposed to be in the agonies of death) expire; and I am hastening to obey this melancholy call, after having just buried a brother who was the intimate companion of my youth, and the friend of my ripened age.

Grayson to Monroe, New York, 30 April, 1787. Ex.

Dear Sir: Affairs go on here very slowly; Mr. Jay has reported to congress that he and Gardoqui have adjusted an article in which the navigation of a certain river is given up; that Mr. Gardoqui has

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wrote for instructions respecting the limits ; the English of the matter is that Rendon has gone to Spain on this business, and, if that court gives up the limits, I have no doubt but the design is to conclude the treaty immediately.

The convention are to meet soon, but am satisfied will effect nothing ; or, if they do, that the states will not confirm. The insurgents of Massachusetts have got full possession of the government constitutionally ; they talk of a depreciating paper and other villainous acts, and I have no doubt but they will be precisely in the situation of Rhode Island without delay. Congress have agreed to sell the townships that have been surveyed at this place. We have made an unsuccessful attempt at indiscriminate locations ; a treaty with Morocco is concluded ; the Count de Vergennes dead ; a close alliance talked of between the king of Prussia and the emperor ; Vermont and Great Britain upon close and secret terms.

You may rely upon me in any instance where I can serve you, and the opportunity of doing this will always give me real happiness.

Consider this letter as confidential.

William Short to Madison, Paris, 7 May, 1787. Ex.

Dear Sir : The Marquis de Lafayette exerts every nerve to prevent the present unfavorable ideas from increasing, and he is reproached every day with the want of faith, if not the bankruptcy of America. Their want of money makes them feel too sensibly at present our want of punctuality. It is in vain that the Marquis tells them they ought not to be surprised at the deranged finances of a young country, just rising from the devastations of war, since so old a government as France, and that in time of peace, should find itself in its present situation. Arguments like this, sir, are of little avail except with a few thinking men, and will not be able to counteract the ill effects of the clamors of those foreign officers dispersed in every part of the kingdom, who served in America, and who think themselves ruined by congress because the interest of their pay is not furnished them—nor of the murmurs of the treasury here because they have not received the annual interest, and a part of the principal of the American debt.

These are the opinions of our federal circumstances—but the circumstances of the states taken individually make a very different impression, and of no state more than Virginia. It is but just to men-

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tion it to you, sir, who have contributed so much, by your exertions in the legislature, to the fame she has acquired in every part of Europe, even in England, where all ranks of people, from the crown to the shopkeeper, may be considered as in a state of war with whatever is American. The act respecting Kentucky, that on religion, and the almost unanimous refusal either to emit a paper currency or meddle with the certificates of public credit, have acquired our state, sir, a degree of eclat and of honor of which it is difficult to form an idea.

Rochambeau to Washington, Paris, 12 May, 1787.

My dear General: It is dreadful to live so far that we do from one another. I receive but in this moment the letter wherewith you have honored me on the thirty-first July ultimate, that you put aboard of an English ship, which after he had made its trade has at last sent it to Havre this last days. But whatever was the cause of the tardy news I receive from you, I am always charmed to see that my dear general and my good friend is enjoying of his glorious and philosophical retreat, where he has known fixed his glory and his happiness.

We are here in a terrible crisis of finances, which has occasioned an assembly of chief men that last yet. You heard speak of the ministry of M. Necker, and of the flourishing state where he had left our finances. A devil of fool, named Calonne, minister of finances since four years, has believed to be bound to take contrary sense of his predecessor, and has made succeed to an economical administration, a prodigality and a devastation which has no example; being at the end of last year without means, he has imagined an assembly of chief men, in which discovering, in his quality of quack, a part of the wound, he did propose all the remedies of an empiric. The assembly of chief men at last has unmasked him to our virtuous king, that he had the skill to deceive as well as a part of his council. He has been lately dismissed, and his office is given to the Archbishop de Toulouse, the knowledge, probity, order, and talents of which give the greatest hopes to the nation. You know enough my character to think that it would not sympathize with that of M. de Calonne, and consequently he did not put me in that assembly, that I have been very glad of. He had also forgot the Marquis de Lafayette. I should have desired he had taken the same course, but his ardor did not permit him to be quiet. We are still in the middle of this crisis which tends to its end, but to comfort us of this misfortune, I will tell you a word of the

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late king of Prussia, which said to the Count d'Esterno, our minister: "I have been brought up in the middle of the unhappiness of France; my cradle was surrounded with refugees Protestants, that about the end of the reign of Louis XIV. and at the beginning of the regency of the Duc d'Orleans, told me that the France was at the agony, and could not exist three years. I known in the course of my reign that the France has such a temper, that there is no bad minister, nor bad generals which be able to kill it, and that constitution has made rise it again of all its crisis with strength and vigor. It want no other remedy but time and keep a strict course of diet." It is to the Archbishop de Toulouse to make use of this two means under a king born virtuous and without passions.

I have been very sorry, my dear général, of the General Green's death. I knew him by reputation and correspondence, and I loved very much all his relations. My consolation, my dear général, is that with sobriety and philosophy you live under a pure sky and in good air, and that Mount Vernon will conserve a long time to the America its heroes and my friend.

My respects to Mad. Washington, to all your family, and to all my anciente camarades and friends.

George Mason to George Mason, Jr., Philadelphia, 20 May, 1787.
Ex.

Dear George: Upon our arrival here on Thursday evening, seventeenth May, I found only the states of Virginia and Pennsylvania fully represented; and there are at this time only five—New York, the two Carolinas, and the two before mentioned. All the states, Rhode Island excepted, have made their appointments; but the members drop in slowly; some of the deputies from the eastern states are here, but none of them have yet a sufficient representation, and it will probably be several days before the convention will be authorized to proceed to business. The expectations and hopes of all the union centre in this convention. God grant that we may be able to concert effectual means of preserving our country from the evils which threaten us.

The Virginia deputies (who are all here) meet and confer together two or three hours every day, in order to form a proper correspondence of sentiments; and for form's sake, to see what new deputies are arrived, and to grow into some acquaintance with each other, we regu-

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larly meet every day at three o'clock P. M. at the state-house. These and some occasional conversations with the deputies of different states, and with some of the general officers of the late army (who are here upon a general meeting of the Cincinnati), are the only opportunities I have hitherto had of forming any opinion upon the great subject of our mission, and, consequently, a very imperfect and indecisive one. Yet, upon the great principles of it, I have reason to hope there will be greater unanimity and less opposition, except from the little states, than was at first apprehended. The most prevalent idea in the principal states seems to be a total alteration of the present federal system, and substituting a great national council or parliament, consisting of two branches of the legislature, founded upon the principles of equal proportionate representation, with full legislative powers upon all the objects of the union; and an executive: and to make the several state legislatures subordinate to the national, by giving the latter the power of a negative upon all such laws as they shall judge contrary to the interest of the federal union. It is easy to foresee that there will be much difficulty in organizing a government upon this great scale, and at the same time reserving to the state legislatures a sufficient portion of power for promoting and securing the prosperity and happiness of their respective citizens; yet, with a proper degree of coolness, liberality, and candor (very rare commodities by the bye), I doubt not but it may be effected. There are among a variety some very eccentric opinions upon this great subject; and what is a very extraordinary phenomenon, we are likely to find the republicans, on this occasion, issue from the southern and middle states, and the anti-republicans from the eastern; however extraordinary this may at first seem, it may, I think, be accounted for from a very common and natural impulse of the human mind. Men disappointed in expectations too hastily and sanguinely formed, tired and disgusted with the unexpected evils they have experienced, and anxious to remove them as far as possible, are very apt to run into the opposite extreme; and the people of the eastern states, setting out with more republican principles, have consequently been more disappointed than we have been.

We found travelling very expensive—from eight to nine dollars per day. In this city the living is cheap. We are at the old Indian Queen in Fourth street, where we are very well accommodated, have a good room to ourselves, and are charged only twenty-five Penn-

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sylvania currency per day, including
sive of club in liquors and extra cha
able to defray my expenses with my
that I do not wish.

Knox to President Sullivan, P.

My dear Sir: As an old friend, a
of the convention, have pressed me to
urge the departure of the delegates fr
Impressed most fully with the bel
anarchy, and that the present conven
ing the most flagitious evils that eve
men, I have cheerfully consented to
have recourse to your kind friendshi
sary. There are here a number of
from several states, among whom is
Washington, who is extremely anxi
Hampshire delegates. A number of
and to commence business, will assem
come on, all the states, excepting Rh
sented. Endeavor, then, my dear sir,
powers. I am persuaded, from the
that the issue will prove that you ha
promoting the measure.

Grayson to Madison, New

Dear Sir: Some particular gentle
getting Georgetown fixed as the cap
say they will vote money for the buil
the compact as irrevocable as the nat
vided we will agree to stay here a rea
made proper for their reception. I a
ern states come forward, but some
vided we act with delicacy and cauti
come among us say the sessions of co
compact; I think they are right in t
such governments as ours. The argu
tioned to you. We have a right to
justice to get it.

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Grayson to Monroe, New York, 29 May, 1787. Ex.

DEAR SIR: I hardly think the convention will be dissolved these three months. What will be the result of their meeting I cannot with any certainty determine, but I hardly think much good can come of it; the people of America don't appear to me to be ripe for any great innovations, and it seems they are ultimately to ratify or reject. The weight of General Washington, as you justly observe, is very great in America, but I hardly think it is sufficient to induce the people to pay money or part with power.

I shall make no observations on the southern states, but I think they will be (perhaps from different motives) as little disposed to part with efficient power as any in the union.

From Monthly Reports to the British Government, June, 1787. Ex.

My opinion is, your interest consists in disuniting them, and that they do not agree to fulfil the preliminaries of peace, or fully to enter into a commercial negotiation; for, by those means, you secure to yourselves the whole of the fur trade, and keep the people of the six northern states in a continual ferment. You may depend, your party gains ground daily, and, should there ever be a war between the United States and Great Britain, I can assure you that, where you had one friend the last war, you would find three now, for the people at large have been deceived, cheated, and ruined by congress; the individual states have tenfold taxes to pay; and nine tenths of their commerce deprived them which they enjoyed before the rebellion. Nor should I be surprised that, in the space of few years, we should send you deputies, to take us on the same footing as Ireland, a glorious transaction to be performed by your house.

George Mason to George Mason, Jr., Philadelphia, 1 June, 1787. Ex.

The idea I formerly mentioned to you, before the convention met, of a great national council, consisting of two branches of the legislature, a judiciary, and an executive (upon the principles of fair representation in the legislature), with powers adapted to the great objects of the union, and consequently a control, in those instances, on the state legislatures, is still the prevalent one. Virginia has had the honor of presenting the outlines of the plan upon which the convention is proceeding, but so slowly that it is impossible to judge when

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the business will be finished; mos
Festina lente may very well be called
here, judging from casual conversatio
ferent states, I was very apprehensive
the unexpected evils we had experien
ples of our governments, we should
extreme, and in endeavoring to steer t
drawn into the vortex of Charybdis,
some danger, though I have the plea
many men of firm republican principl
this occasion drawn forth her first char
vention many gentlemen of the most
as I can yet discover, of the purest int
States are turned upon this assembly, a
a very anxious degree. May God gra
them by establishing a wise and just g
I never before felt myself in such a sitt
upon pecuniary motives, serve in this co
per day. The revolt from Great Brit
new governments at that time, were no
business now before us. There was t
siasm which inspired and supported th
the calm, sedate medium of reason, th
ments now proposed may have upon t
ions yet unborn, is an object of such
manner suspends, the operation of the

P. S.—All communications of the pr
the sitting of the convention; this, I t
to prevent misrepresentation, or mista
ference between the appearance of a su
gested shape, and after it shall have
ranged.

Temple to Carmarthen, New Y

My Lord: Delegates for eleven c
(with General Washington for their pr
delphia. Their principal object is t
that shall answer for the government
happy country, either by a revision of

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eration, or by adopting others entirely new. So many different sentiments and clashing interests will probably meet in contact upon the occasion, that great doubts are justly entertained whether any measures will be unanimously adopted by the convention; or, if that should happen, whether all the states will ratify and abide by what the delegates may determine upon. The little state of Rhode Island hath already gone so retrograde to the articles of confederation, and to the subsequent orders and doings of congress, and having not thought proper to send delegates to the convention, it is already seriously talked of, the annihilating of Rhode Island as a state, and to divide that territory (I mean the government of it) between Massachusetts and Connecticut. The delegates in convention are at present acting under the most solemn injunctions of secrecy, so that it is not yet in my power to mention what progress they have made. Whenever it may be in my power, I shall have the honor of communicating it to your lordship.

Since the date of my last letter, three ships have arrived from Canton—one at Philadelphia, one at Salem, and the other here—loaded with the produce and manufactures of the East, and several more ships are expected; their cargoes sell at a very low price for specie, which is daily becoming scarcer in these states.

E. Carrington to Jefferson, New York, 9 June, 1787. Ex.

The proposed scheme of a convention has taken more general effect, and promises more solid advantages than was at first hoped for.

The commissions of these gentlemen go to a thorough reform of our confederation; some of the states at first restricted their deputies to commercial objects, but have since liberated them. The latitude thus given, together with the generality of the commission from the states, have doubtless operated to bring General Washington forward. In every public act he hazards without a possibility of gaining reputation; he already possesses everything to be derived from the love or confidence of a free people, yet it seems that it remained for himself to add a lustre to his character by this patriotic adventure of all for his country's good alone.

The importance of this event is every day growing in the public mind, and it will, in all probabilities, produce a happy era in our political existence. Taking a view of the circumstances which have occasioned our calamities, and the present state of things and opinions,

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I am flattered with this prospect. Public events in the United States since the peace have given a cast to the American character which is by no means its true countenance. Delinquencies of the states in their federal obligations, acts of their legislatures violating public treaties and private contracts, and an universal imbecility in the public administrations, it is true, form the great features of our political conduct; but these have resulted rather from constitutional defects and accidental causes than the natural dispositions of the people.

The nefarious acts of state governments have proceeded not from the will of the people; peace once obtained, men whose abilities and integrity had gained the entire popular confidence retired from the busy scene; mere adventurers in fraud were left to act unopposed. Hence have proceeded paper money, breaches of treaty, etc. The ductility of the multitude is fully evidenced in the case of the late tumults in Massachusetts. Men who were of good property, and owed not a shilling, were involved in the train of desperadoes to suppress the courts. A full representation of the public affairs from the general court, through the clergy, has reclaimed so great a proportion of the deluded that a rebellion, which a few months ago threatened the subversion of the government, is, by measures scarcely deserving the name of exertion, suppressed. In this experiment it is proved that full intelligence of the public affairs not only would keep the people right, but will set them so after they have got wrong.

Civil liberty, in my opinion, never before took up her residence in a country so likely to afford her a long and grateful protection as the United States. A people more generally enlightened than any other under the sun, and in the habit of owning instead of being mere tenants in the soil, must be proportionably alive to her sacred rights and qualified to guard them; and I am persuaded that the time is fast approaching when all these advantages will have their fullest influence. Our tendency to anarchy, and consequent despotism, is felt, and the alarm is spreading; men are brought into action who had consigned themselves to an eve of rest, and the convention, as a beacon, is rousing the attention of the empire.

The prevailing impression, as well in as out of convention, is that a federal government, adapted to the permanent circumstances of the country, without respect to the habits of the day, will be formed, whose efficiency shall pervade the whole empire; it may, and probably will at first, be viewed with hesitation; but, derived and patron-

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ized as it will be, its influence must extend into a general adoption as the present fabric gives way. That the people are disposed to be governed is evinced in their turning out to support the shadows under which they now live, and, if a work of wisdom is prepared for them, they will not reject it to commit themselves to the dubious issue of anarchy.

I am certain that nothing less than what will give the federal sovereignty a complete control over the state governments will be thought worthy of discussion.

The ideas here suggested are far removed from those which prevailed when you was among us; and as they have arisen with the most able from an actual view of events, it is probable you may not be prepared to expect them; they are, however, the most moderate of any which obtain in any general form among reflective and intelligent men.

E. Gerry to Monroe, Philadelphia, 11 June, 1787. Ex.

The convention is proceeding in their arduous undertaking with eleven states, under an injunction of secrecy on their members. New Hampshire has elected members, who are soon expected. The object of this meeting is very important, in my mind; unless a system of government is adopted by compact, force, I expect, will plant the standard; for such an anarchy as now exists cannot last long. Gentlemen seem to be impressed with the necessity of establishing some efficient system. I hope it will secure us against domestic as well as foreign invasion.

E. Carrington to Madison, New York, 18 June, 1787. Ex.

Had the rules of the convention permitted communications from thence, you would have conferred an obligation by including me in the number of your correspondents upon the subjects of deliberation in that assembly. My curiosity is, however, perfectly suppressed by the propriety of the prohibition. Having matured your opinions and given them a collected form, they will be fairly presented to the public and stand their own advocates; but caught by detachments, and while indeed immature, they would be equally the victims of ignorance and misrepresentation. The public mind is now on the point of a favorable turn to the objects of your meeting, and, being fairly met with the result, will, I am persuaded, eventually embrace it. Being

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calculated for the permanent fitness
the country, it may at first be vie
and patronized as it will be, its influ
as the present fabric gives way.
done forever; but, patched up in a
day, it will soon require the hand o
unfortunate experiment the material
monument of civil liberty which we
eral government, invigorate and che
dent powers over the trade, the reve
all things that involve any relationsh
the revisal of all state acts. Unless i
the state governments, the constant
gated powers; nor do I see what inc
can have to negative an innocent act

Constitute it in such shape that, it
it will be a good republic. I wish t
periment. But let the liability to e
federal than the state governments.
bly glide into a monarchy; in the la
the consequence.

Some gentlemen think of a total su
I see not the necessity of that measu
or consequence. The negative of th
ually prevent the existence of any li
I believe that even under a monar
thus to continue the local administra
ate many particular oppressions, an
found incompetent to the formatio
the United States may be well con
the affairs of so extensive a count
mass. An attempt to confederate
the particular interests would in all
ment, and, in that event, within a lo
of America will be at an end as to a
let her fate be what it may as to
enough to present me to your honor
be, with the utmost sincerity, you
servant.

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Wm. Sam. Johnson to his Son, Philadelphia, 27 June, 1787. Ex.

My Dear Son: I am here attending with Mr. Shearman (*sic*) and Mr. Elsworth (*sic*) as delegates, on the part of Connecticut, a grand convention of the United States, for the purpose of strengthening and consolidating the union and proposing a more efficient mode of government than that contained in the articles of confederation. We have delegates from eleven states actually assembled, consisting of many of the most able men in America, with General Washington at our head, whom we have appointed president of the convention. It is agreed that for the present our deliberations shall be kept secret, so that I can only tell you that much information and eloquence has been displayed in the introductory speeches, and that we have hitherto preserved great temperance, candor, and moderation in debate, and evinced much solicitude for the public weal. Yet, as was to be expected, there is great diversity of sentiment, which renders it impossible to determine what will be the result of our deliberations. Your most affectionate father and friend.

Lords of the Council to Dorchester, Whitehall, 13 July, 1787. Ex.

With respect to any intercourse by land or by inland navigation between his Majesty's province of Quebec and the territories belonging to the United States of America, the committee are of opinion that it should be left to Lord Dorchester, with the advice of the legislative council of that province, to make such orders therein as he may think most proper.

Nathan Dane to Rufus King, New York, 16 July, 1787.

Dear Sir: I am obliged to you for yours of the eleventh instant. With pleasure I communicate to you what we are doing in congress—not so much from a consciousness that what we do is well done as from a desire that you may be acquainted with our proceedings. We have been much engaged in business for ten or twelve days past, for a part of which we have had eight states. There appears to be a disposition to do business, and the arrival of R. H. Lee is of considerable importance. I think his character serves, at least in some degree, to check the effects of the feeble habits and lax mode of thinking of some of his countrymen. We have been employed about several objects, the principal of which have been the government enclosed and the Ohio

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purchase; the former, you will see, probably be completed to-morrow. M.'s system of W. government; s the whole to Carrington, Dane, R. met several times, and at last agreed Smith, and myself. We found ours company appeared to purchase a la about six or seven millions of acres old system and get a better one for and we finally found it necessary to get. All agreed finally to the encl appeared in this case, as in most other at all. I think the number of free requisite for the admission of a new s small; but, having divided the whole number appears to me to be less impo mon course of things, must become im that number of inhabitants. The east ably be the first and more important be settled chiefly by eastern people equal chance of its adopting eastern nance (which passed, a few words exc I had no idea the states would agree slavery, as only Massachusetts, of the therefore omitted it in the draft; b disposed on this subject, after we h moved the article, which was agreed in a fair way to fix the terms of our upon it three days steadily. The m us very cautious about the terms of i ensure the performance of it.

[The preceding extract was comm bune, 31 Jan., 1855, by Charles King. by Charles R. King, the present custo

Otto to Montmorin, New Yo

The vast territories lying betwee the lakes, begin to be of great interes

A company has just offered to tha

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of dollars, in loan certificates, for a like number of acres, which is considered a very good bargain for the United States. It is certain that that country contains enough land to pay the whole domestic debt of the United States.

Colonel Harmer, stationed on the Ohio with seven hundred regulars, prevents adventurers from Kentucky crossing the river to seize the land, and even the savages begin to acknowledge the sovereignty of the United States since congress has solemnly announced that it would not dispose of an inch of ground unless it had been previously purchased of the savage tribes dwelling on it. The former division of that country into ten states, which was proposed by Jefferson, appeared very imperfect, and subject to great difficulties.

Congress has just published a new ordinance, by which all the territory of the west between the Ohio and the lakes will be included in a single government until a large population renders its division necessary.

This ordinance contains very wise provisions in regard to the manner of acquiring lands, the appointment of the governor, of the assembly, and of the legislative council, commerce and navigation, the rights of the citizen, the formation of courts, and in general all that which relates to the internal organization of this new colony.

Here it is established as a fundamental principle that every person of orderly demeanor may reside in that country without being molested on account of religion ; that the inhabitants shall always be entitled to the privilege of *habeas corpus* and of trial by jury ; that they shall lose neither liberty nor property except by the judgment of their peers ; that no law ought ever to be made prejudicial to private property (this provision has especial reference to the grievances caused by paper money); that it shall not be allowed to take from the savages without their consent the least portion of their lands ; that no deceit shall be employed in treating with them ; that the territory shall forever form a part of the confederation, and shall pay its part of the public debts and other federal expenses, but shall be taxed only by its own legislature, in the same manner as the states of the union ; that, when its population shall allow, it shall be divided into not more than five states, each one of which shall have the right of sending representatives to congress whenever it shall give evidence of containing sixty thousand inhabitants ; finally, that slavery shall be forever prohibited in the said territory, except in the case of those whom the laws shall decree quietly of heinous offences.

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Such is the substance of an ordinance which determines the future rights of this territory, a great part of which is still unknown. The wisdom which dictated these various provisions is universally admired, and congress will experience no difficulty in disposing by degrees of all the lands included in this colony.

Many delegates have come (to me) to inform me that the United States earnestly desired to show their gratitude to the French generals who distinguished themselves in America by offering to them extensive possessions in this new country, but they did not know whether the court would approve such a step. I told them that his Majesty would probably receive with great satisfaction this new proof of the attachment of the United States. I think that the parsimony of the northern states will forbid this plan, and that merely the names of Rochambeau, d'Estaing, etc., will be given to certain districts, as has been done in Pennsylvania in order to give to the Chev. de la Luzerne and to the Marquis de Lafayette public testimonials of esteem and gratitude.

Memorial of the Ohio Company, 21 July, 1787.

It is proposed by S. H. Parsons, Rufus Putnam, and M. Cutler, for themselves and associates, to purchase of the United States the undermentioned tract in the western territory of the United States, on the following conditions, viz.:

DESCRIPTION OF THE TRACT.

A certain tract of land in the western territory of the United States, bounded on the east by the western boundary of the seventh range of townships, on the south by the Ohio river, on the west by the river Scioto, and on the north by a due east and west line run from the northwest corner of the south township of the seventh range [reckoning from the Ohio] until it shall intersect the Scioto.

CONDITIONS.

1. The price to be three shillings and sixpence, lawful money, or one twelfth of a dollar, per acre, payable in any of the securities of the United States.

2. In payment for the lands, no interest shall be computed on the certificates paid in, provided that indents of interest, signed by the treasurer of the United States, shall be given to the purchasers for all arrearages of interest due on the said certificates to the date of their

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payment, which indents shall be receivable in all the general requisitions, in proportion assigned to the respective requisitions, on which they may be paid in.

3. The payments of the above purchase to be made in the following manner, viz. :

The first payment shall be within three months, computed from the date of this agreement, and shall amount to two hundred and fifty thousand dollars.

The second payment shall be when the survey of the above tract is made, and shall amount to four hundred thousand dollars.

The remainder shall be paid in six equal instalments, at the expiration of every six months, computed from the date of the second payment.

4. When the first payment is made, an instrument of writing shall be delivered to the purchasers, signed by the president of the United States in congress, and sealed with their seal, declaring that the United States have sold to S. P., R. P., and M. C., and their associates, for and in consideration of one dollar per acre, the tract of land above described. On which the purchasers shall execute another instrument, binding themselves and their associates for the payment of the above purchase, agreeable to the above conditions.

And it shall be further declared, in the last-mentioned instrument, that the purchasers shall not be entitled to take possession of any part of the lands contained in the above tract only in the following manner, viz. : When the first payment is made, they shall have a right to take possession of a certain tract of land bounded east by the seventh range of townships, on the south by the Ohio river, on the west by a line run due north from the western cape of the Great Kanawha, so far as that from its termination ; a line run east to the western boundary of the seventh range of townships may comprehend a quantity adequate to the first payment. When the second payment is made, they shall have a right to take possession of as great a quantity of lands as shall be, when added to the aforesaid quantity, equal to the amount of one million of dollars ; which lands shall be bounded on the east by the western line of the seventh range of townships, on the south by the first location, on the west by a continuation of the line from the Great Kanawha, and on the north by an east and west line to the western boundary of the seventh range of townships. Military rights, in ratio of one to seven, to be admitted in the above-

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mentioned possessions for the office
who may be proprietors in the said l
the establishment of a literary institu
instalments are completely paid, and
have a right to take possession of as
several payments at that time made
equal payment and possession shall b
ment and possession is accomplished.

When the first and second payme
ment completed, then the purchasers
the quantity of land which shall be e
ion of dollars, comprehended within t
and after this period they shall, from
as great a quantity of lands as their
them to at the price agreed on.

5. Notwithstanding the declaratio
mentioned instrument, the purchasers
oblige themselves, in case of failure i
tioned, to renounce all claim or prete
which they have not made *bona fide* p
the said company or individuals there
or pretence to enter on or take possess
of which such failure is made, and th
sold by congress to any person or per
said tracts of which such failure is ma
by congress, the present purchasers sh
if any, which may arise betwixt the
what is hereby contracted for.

6. The purchasers shall have the ri
ditional townships somewhere northe
at the price agreed on, and to take p
payment thereof shall be duly made.

7. The aforesaid purchasers shall,
seven years from date hereof, lay off
purchase into townships and fraction
the same into lots according to the lar
returns thereof to the board of treas
each township and fractional part of
future disposition of congress. Lot

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by congress, to the maintenance of schools, and lot No. 29 to the purposes of religion in the said townships. Two townships near the centre of the second specified tract, which comprehends the purchase amounting to the first-mentioned million of dollars, and of good land, to be also given by congress for the support of a literary institution, to be applied to the intended object by the legislature of the state.

[The above is in the handwriting of Parsons, vol. viii., No. xli. Memorials P. R. Papers of old cong. state dept.

Endorsed in Thomson's hand. Proposals of S. H. Parsons, 21 July, 1787.]

Edw. Carrington to Jas. Madison, New York, 25 July, 1787. Ex.

We are trying to do something with our western territory to make it useful to the purposes for which the United States were vested with it. You have seen in the papers the scheme for the temporary as well as perpetual government of it. A practical measure for the sale of it, or rather by means of it, to redeem the domestic debt, remains still to be agreed upon, and I fear the difficulties which have always stood in the way of this great object are not yet to be surmounted. Colonel Lee joins Grayson and myself with great zeal, but what will be the issue of our efforts I know not.

Jay to Washington, 25 July, 1787. Ex.

Permit me to hint whether it would not be wise and seasonable to provide a strong check to the admission of foreigners into the administration of our national government, and to declare expressly that the command in chief of the American army shall not be given to, nor devolve on, any but a natural-born citizen.

Carrington to Monroe, New York, 7 Aug., 1787. Ex.

We have at last made a break into the western lands. The Ohio company have adjusted with congress a contract for four or five millions of acres in a body, on the east side of Scioto, at two thirds of a dollar per acre, to lay it out into townships agreeably to the land ordinance, and leave three sections in each township for the future disposition of congress. This I hold a great bargain for the U. S., as the land goes good and bad together, and it will be a means of introducing into the country, in the first instance, a description of men who will fix the character and politics throughout the whole territory, and

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which will probably endure to the latest period of time. This company is formed of the best men in Connecticut and Massachusetts, and they will move out immediately. I am about to join them with a few shares; what think you of such an adventure?

Grayson to Monroe, New York, 8 Aug., 1787. Ex.

DEAR SIR: Since my last, congress has passed the ordinance for the government of the western country in a manner something different from the one which you drew, though I expect the departure is not so essential but that it will meet your approbation. You will observe that the consent of Virginia is necessary to entitle the people to certain rights, as also that the former act is repealed absolutely. I am satisfied, therefore, you will do everything in your power to get the state to alter her act of cession in such a manner as will square with the ordinance. It seems the subject was not taken up last year. The clause respecting slavery was agreed to by the southern members for the purpose of preventing tobacco and indigo from being made on the northwest side of the Ohio, as well as for several other political reasons. After this ordinance was passed in congress, the eastern Ohio company came forward, and have agreed with congress for between five and six millions of acres lying between the Scioto and the western boundary of the seven ranges, and extending back into the country about sixty miles. On the following terms, viz., one dollar per acre, public securities, deducting one third of a dollar for bad land, and surveying, etc., the company to pay half a million on the signing the contract; half a million on the line being run by the geographer, and the residue in six half-yearly instalments with interest in the mean time; the company to lay off the territory in townships of six miles square; the company to have two sections for religion and education gratis, also two townships for the purposes of a university on the same terms; three sections in each township to be reserved for the future disposition of congress. I understand this company mean to settle this country very thick and without delay; of course, the adjacent lands will become very valuable; they send forward a number of families this fall; a reinforcement in the spring, and a very considerable number fall come twelvemonth; the funds of the company were only a million when they made the contract, since which they have increased in an amazing degree, so that there is not the least doubt but they will perform their part of the contract in all its parts; and

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as their objects are actual settlement and defence, there is every reason to conclude it will be of the greatest advantage to that country. From the great number of inhabitants in the eastern states and in the Jerseys, I should not be surprised to see them in a very few years extend themselves by additional purchases quite to the Mississippi, and thereby form a complete barrier for our state, at the same time greatly validating the lands on the Virginia side of the Ohio.

A committee is appointed to draught an ordinance for the sale of the lands between the Scioto and Great Miami, on the principles of indiscriminate location nearly; and if the southern states attend, I apprehend it can be carried; this, however, will not bring any large quantity to market, as after deducting the claims of the Virginia officers and soldiers, and the continental bounties, the residue will not be very considerable.

Mr. Adams has not done anything at the court of Great Britain; he has requested his recall in very pointed terms. Who will be elected to succeed him, or whether congress will send anybody, is more than I can tell; at present they seem much divided on the subject. The Mississippi is where you left it; i. e., nothing has been done. Mr. Jay has, in one of his late letters, decidedly said he would do nothing more without further discretion of congress. I therefore think we are safe for the present.

From the Cabinet of Versailles to Otto, Versailles, 30 Aug., 1787. Ex.

It appears, sir, that in all the American provinces there is more or less tendency toward democracy; that in many this extreme form of government will finally prevail.

The result will be that the confederation will have little stability, and that by degrees the different states will subsist in a perfect independence of each other.

This revolution will not be regretted by us. We have never pretended to make of America a useful ally; we have had no other object than to deprive Great Britain of that vast continent. Therefore, we can regard with indifference both the movements which agitate certain provinces and the fermentation which prevails in congress. This must not hinder you from continuing to give an account of all that shall take place; I can only praise the accuracy which I have noticed in your despatches.

I fear that the discussions in regard to the Mississippi will become

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serious, and that they will become e
misapprehend her interests, but that
right to employ force against that po
sippi belongs to her; she has therefor
closed, and the Americans can obtain
negotiation. The court of Madrid w
if it had the same principles as ours i

William Grayson to J. Madison, M

Judge Symms, of Jersey, yesterd
that tract of country lying between t
east and west line, and the Ohio, supp
on the same terms, with the Eastern
has met with the entire approbation
there is no doubt but as soon as there
will be closed.

Sydney to Lord Dorchester, Whi

My Lord: I have been favored w
numbered from ten to twenty-six, incl
ing them, with their several enclosur
all undergone some consideration, an
have been instructed to do, to them in

With regard to the posts, to whi
ticularly relates, it was, I believe, inti
to your departure, that it was the firm
that the retaining the possession of th
justifiable, and, from the conduct obse
of the American states, they have no
upon that point. It therefore become
taken by putting them into a tempora
attack which the citizens of the state
it can be done the better. The exe
must consequently be attended with
feel no difficulty in submitting the ext
to your lordship's judgment and discr
your zeal for the public welfare will i
of any sort to be incurred which is
necessary.

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This resolution naturally brings forward some communications from your lordship wherein that subject is very materially concerned; I mean with respect to the conduct to be observed toward the Indians, and the establishment of a militia.

As to the first, it has all along been the disposition of his Majesty's ministers to pay that sort of attention to those people, and that regard to their situation and necessities, which can with any degree of reason be expected by them. Under this idea such supplies have been sent out, as appeared from your lordship's despatches, to be equal to their immediate wants, and though, as your lordship must suppose, it is desirable upon many accounts that these expenses should be kept upon as moderate a scale as possible, yet his Majesty's servants, considering that the protection of the fur trade and perhaps the general security of the province of Quebec may in some degree depend upon the part these people may take, would rather submit to an augmentation of such supplies than suffer them to be discontented or dissatisfied, particularly at this moment, when their active assistance may possibly be called for, and which must happen should the posts be attacked. It is to be hoped that the Americans will not proceed to hostile measures; but if they should avail themselves of any opportunity which may offer of seizing upon the posts, it will become your lordship's duty to use every endeavor to regain the possession of them, if you should find yourself sufficiently strong to be able to effect it.

With regard to the establishment of a militia, I am to acquaint your lordship that his Majesty's servants entirely approve of the measure. It will not only immediately add to the internal strength of the province, but will be a means of attaching the principal Canadian families, and will incline them warmly to engage in the support of its interests whenever they may be invaded.

It is to be hoped that your lordship has been able to succeed in your endeavors to procure a sufficient number of seamen to compose the crews of the vessels which your lordship proposed to employ upon the lakes; at present it seems to be very difficult to raise supplies of seamen in this country, and could it even easily be done, it might perhaps be advisable, considering the uncertain state of affairs upon the European continent, to secure their services on this side the Atlantic. But if your lordship should still remain under any difficulties, I have no doubt that the officer commanding the king's ships upon the Ameri-

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can station will be ready to lend every assistance which the small squadron under his orders can enable him to do.

The report of an intention on the part of America to apply for a sovereign of the house of Hanover has been circulated here; and should an application of that nature be made, it will require a very nice consideration in what manner so important a subject should be treated. But whatever ideas may have been formed upon it, it will upon all accounts be advisable that any influence which your lordship may possess should be exerted to discourage the strengthening their alliance with the house of Bourbon, which must naturally follow were a sovereign to be chosen from any branch of that family.

Major Jackson to Washington, 17 Sept., 1787.

Major Jackson presents his most respectful compliments to General Washington. He begs leave to request his signature to forty diplomas intended for the Rhode Island Society of the Cincinnati.

Major Jackson, after burning all loose scraps of paper which belong to the convention, will this evening wait upon the general with the journals and other papers which their vote directs to be delivered to his Excellency Monday evening.

Carrington to Madison, New York, 23 Sept., 1787. Ex.

My dear Sir: The gentlemen who have arrived from the convention inform us that you are on the way to join us. Lest, however, you may, under a supposition that the state of the delegation is such as to admit of your absence, indulge yourself in leisurely movements after the fatiguing time you have had, I take this precaution to apprise you that the same schism which unfortunately happened in our state in Philadelphia, threatens us here also. One of our colleagues, Mr. R. H. Lee, is forming propositions for essential alterations in the constitution, which will, in effect, be to oppose it. Another, Mr. Grayson, dislikes it, and is at best for giving it only a silent passage to the states. Mr. H. Lee joins me in opinion that it ought to be warmly recommended to insure its adoption. A lukewarmness in congress will be made a ground of opposition by the unfriendly in the states. Those who have hitherto wished to bring the conduct of congress into contempt will, in this case, be ready to declare it truly respectable.

Next Wednesday is fixed for taking under consideration this business, and I ardently wish you could be with us.

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The New York faction is rather active in spreading the seeds of opposition. This, however, has been expected, and will not make an impression so injurious as the same circumstance would in some other states. Colonel Hamilton has boldly taken his ground in the public papers, and, having truth and propriety on his side, it is to be hoped he will stem the torrent of folly and iniquity.

I do not implicitly accede in sentiment to every article of the scheme proposed by the convention, but I see not how my utmost wishes are to be gratified until I can withdraw from society. So long as I find it necessary to combine my strength and interests with others, I must be satisfied to make some sacrifices to the general accommodation.

Report to Count de Montmorin, Versailles, 8 Oct., 1787.

You are aware, sir, of the advances which the royal treasury made to the United States of North America during the last war, and of the terms of the contract agreed to by the king and congress in July, 1782, for repayment and for the interest on these advances.

I see with pain, according to the account which has just been rendered to me, that these terms have not been fulfilled, and that the United States are greatly in arrears in their engagements.

On the first of January next they will owe us:

1. 800,000 livres for the years 1786 and 1787, interest of the loan of ten millions made in Holland in 1781 on their account . .	800,000
2. 1,000,000 for first instalment of the said loan falling due in December, 1787	1,000,000
	1,800,000

NOTE.—The king is bound to pay this 1,800,000 livres in Holland, and he has received nothing to replace it.

Further, the United States owe on the first of this month:

1. 3,600,000, four years' interest at five per cent. of loan of eighteen millions	3,600,000
	5,400,000
2. 1,500,000, first payment on said loan	1,500,000
3. Interest at five per cent. since 1 January, 1784, on another loan of six millions	1,125,000
Total,	8,025,000

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I thought it my duty, sir, to place this result before your eyes, and to beg you to employ your offices to hasten the repayment of these various sums, and particularly the 1,800,000 for which the royal treasury will be in advance at the end of this year.

I shall be greatly obliged to you if you will signify to me what part of this sum I can depend upon. I have the honor, etc.

(Signed) LAMBERT.

Washington to James Madison, Mount Vernon, 10 Oct., 1787. Ex.

The political tenets of Colonel M. [Mason] and Colonel R. H. L. [Richard Henry Lee] are always in unison. It may be asked which of them gives the tone? Without hesitation I answer the latter, because I believe the latter will receive it from no one. He has, I am informed, rendered himself obnoxious in Philadelphia by the pains he took to disseminate his objections among some of the leaders of the seceding members of the legislature of that state. His conduct is not less reprobated in this country. How it will be relished generally is yet to be learned by me.[1]

Washington to Colonel David Humphreys, 10 Oct., 1787. Ex.

MY DEAR HUMPHREYS: Go matters, however, as they may, I shall have the consolation to reflect that no objects but the public good, and that peace and harmony which I wished to see prevail in the convention, obtruded even for a moment in my bosom during the whole session, long as it was. What reception this state will give to the proceedings in all its extent of territory is more than I can inform you of; in these parts it is advocated beyond my expectation. The great opposition (if great there should be) will come from the southern and western counties, from whence I have not as yet received any accounts that are to be depended on.

Instructions to the Count de Moustier, Versailles, 13 Oct., 1787. Ex.

I have the honor, sir, to send you your instructions. They make mention of a document regarding commerce. I will cause it to be forwarded to you as soon as it shall have been addressed by the comptroller-general. You know that it is to include the result of a treaty which has for its object to determine the advantages which France is

[1] This passage, left out by Sparks, ix. 267, is copied from Washington's Letter Book. It has been printed in the "Cincinnati Enquirer."

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willing to grant to American commerce. As to the obligations which are also mentioned in your instructions, you will find them in the correspondence of M. de Chevalier de la Luzerne.

The political object, sir, which I have to recommend most strongly to your attention is the conduct of England, and the sentiment which prevails in America regarding that power.

I surmise that, if war should break out, the Americans would wish to remain neutral. The king would probably willingly favor this disposition, provided it should be carried out in good faith. But it is not the moment to be more explicit upon this point, since circumstances may counteract our principles. For the rest, it appears to me that it will become the business of the Americans to approach us in a matter which will make an exception to our treaty of alliance.

Accordingly, sir, if you are sounded on this subject, you will respond with the greatest circumspection, and you will take heed to say nothing which may bind or embarrass his Majesty. For the rest, I maintain a steadfast hope that war may still be prevented.

Monroe to Madison, Richmond, 18 Oct., 1787.

The report from Philadelphia hath presented an interesting subject to their consideration. It will perhaps agitate the minds of the people of this state more than any subject they have had in contemplation since the commencement of the late revolution, for there will be a greater division among the people of character than then took place, provided we are well informed as to the sentiments of many of them. It is said that Mr. Henry, General Nelson, Harrison, and others, are against it. This ensures it a powerful opposition, more especially when associated with that of the two dissenting deputies. There are, in my opinion, some strong objections *against* the project, which I will not weary you with a detail of; but under the predicament in which the union now stands, and this state in particular, with respect to this business, they are overbalanced by the arguments in its favor. The assembly will meet to-morrow, and we have reason to believe we shall have a house the first or second day. We shall soon find how its pulse beats, and what direction this business will take. I believe there will be no opposition to a convention; however, of this I shall be able to give you better information in a few days.

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Grayson to Monroe, New

DEAR SIR: I have received your
to Miss Kortright, the captain bein
gress four days since made a contra
of New York, for three millions o
the same terms as that of Cutler an
you that Judge Symms, of Jersey, h
tween the Great and the Little Mia
will, when fully complied with, amo
millions dollars of the domestic debt
the western country in its true light-
the extinctionment of the domestic
board to continue the sales on nearly
those already made. A very conside
from the five easternmost states. A
setts immediately, which is to be fo
able ones next spring and fall. A
this town, will carry out (it is said)
ing to five hundred. Symms is beat
seys, as is the case with Parsons in C
Island; these two last are appointed

Congress have authorized St. Cla
territory, to hold a treaty with the I
and fourteen thousand dollars are a
treaty is also directed with the Che
sand dollars are appropriated for it.

The new constitution is favorably
chusetts, and New Jersey; in this st
ity against it, and in Pennsylvania t
equal. From Rhode Island and N
tion.

Carrington to Jefferson, N

The project is warmly received in t
pretty generally a subject of consider
assemblies of the people, the usual r
its adoption. In the middle states
but not being in habits of assemblin
to the eastward, the people have giv

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declarations. Some symptoms of opposition have appeared in New York and Pennsylvania; in the former only in individual publications, which are attended with no circumstances evidencing the popular regard. The governor holds himself in perfect silence, wishing, it is suspected, for a miscarriage, but is not confident enough to commit himself in an open opposition; in the latter, the opposition has assumed a form somewhat more serious, but under circumstances which leave it doubtful whether it is founded in objections to the project or the intemperance of its more zealous friends.

From the southern states we are but imperfectly informed; every member from the Carolinas and Georgia, as well in convention as congress, are warm for the new constitution; and, when we consider the ascendency possessed by men of this description over the people in those states, it may well be concluded that the reception will be favorable. In Virginia there may be some difficulty; two of her members in convention, whose characters entitle them to the public confidence, refused to sign the report; these were Colonel Mason and Governor Randolph. Nor was that state without its dissentients, of the same description, in congress; these were Mr. R. H. Lee and Mr. Grayson, but upon very opposite principles—the former because it is too strong, the latter because it is too weak.

Mr. Madison writes you fully upon the objections from Virginia, and therefore I will not impose on your patience by repeating them; one, however, being merely local, and an old source of jealousy, I will present to your consideration my opinion upon; this is the ability of a bare majority in the federal government to regulate commerce. It is supposed that a majority of the union are carriers, and that it will be for the interest and in the power of that majority to form regulations oppressing, by high freights, the agricultural states. It does not appear to me that this objection is well founded.

A navigation act ought, doubtless, to be passed for giving exclusive benefits to American ships. This would, of course, serve the eastern states, and such in justice ought to be the case, as it may, perhaps, be shown that no other advantage can result to them from the revolution; indeed, it is important to the interests of the southern states that the growth of a navy be promoted for the security of that wealth which is to be derived from their agriculture.

The western territory belonging to the United States has more effectually received the attention of congress during this session than it ever

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did before. Enclosed you will receive the ordinance for establishing a temporary government there, and providing for its more easy passage into permanent state governments. Under the old arrangement the country might upon the whole have become very populous, and yet be inadmissible to the rights of state government, which would have been disgusting to them and ultimately inconvenient for the empire. The new arrangement depends on the accession of Virginia, which there can be no doubt of obtaining.

Otto to Montmorin, New York, 23 Oct., 1787. Ex.

Surprise is manifested that congress itself is not of one mind in regard to the great powers which are proposed to be granted to it.

Mr. Richard Henry Lee is at the head of the opposition. Although chosen a member of the convention at Philadelphia, he steadfastly refused to betake himself thither. He does not consider that the situation of the United States is so desperate that a necessity exists of resorting to violent remedies; he especially disapproves of the grant of immense power to the government without introducing the constitution by a bill of rights, which has always been regarded as the palladium of a free people. "If," he says, "instead of a virtuous and patriotic president, they give us a William V., what will become of our liberty? how shall we avoid usurpation? Where is the compact between the nation and the government? The constitution makes mention only of those who govern, nowhere of the rights of the people governed." This new Gracchus has all the talents necessary to cause an impression; opposed to him are men equally distinguished for their merit, learning, and their services; but he pleads the cause of the people.

The continental treasury is so exhausted that the commissioners do not know how to satisfy the most urgent needs. The moment of effectually pressing the claims of his Majesty has not yet come; from this point of view the proposed government would certainly be more favorable to us.

General St. Clair, the present president of congress, has recently been appointed governor of the western country; the other officers have also been chosen, and are about to set out for their destination. Several officers of the army, and a great number of adventurers, are flocking thither to form settlements there. The excess of population in the northern states and all the discontented are journeying

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thither in crowds, and the banks of the Ohio will soon be covered with plantations.

Lord Dorchester to the Secretary of State, Quebec, 24 Oct., 1787.

My Lord: A proposal was made to me by Mr. Silas Deane, a few days before my departure from England, to cut a canal from Lake Champlain, round the rapids of St. John, into the basin of Chambly, for the purpose of opening a navigation to that lake from the river St. Lawrence, for vessels of a certain burden.

As far as a cursory view of the country can justify any opinion, this object appears to be practicable and useful, both in a commercial and a political view, provided the conditions of executing the same be not objectionable.

I have therefore advised Mr. Deane to lay the particulars of his plan and proposals before your lordship, that the same may be considered and submitted to the king's pleasure.

C. Gadsden to Thomas Jefferson, Charleston, 29 Oct., 1787.

I make no doubt the philosophic part of Europe will admire the constitution recommended by our convention; the trading part of Great Britain, perhaps, many of them, may be jealous of it, considered in a commercial view, in its probable consequence to them, by increasing the means of opening the eyes of America and exposing many rooted prejudices to them particularly.

For my part I bless God to have lived to see this important point in so fair a way to be accomplished; and, if I live to see it completely so, I shall be able to cry out with old Simeon: "Now may thy servant depart in peace, for mine eyes have seen thy salvation."

Langdon to Washington, Portsmouth, 6 Nov., 1787.

Your Excellency will permit me to congratulate you on the prospect that appears in this part of the continent of speedily establishing the national plan of government, in the formation of which you took so laborious a part. I have not heard a single person object to the plan, and very few find fault even with a single sentence, but all express their greatest desire to have it established as soon as may be.

Our general court unfortunately adjourned a few days before the official plan came to hand, but will meet again next month, and no

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doubt will call the convention earl
national plan of government. I ha

Lord Dorchester to Lord Sydn

My Lord: The political system,
inces, cannot preserve us these rem
of time. I cannot too often repe
nothing to gain by a separation, o
attachment, and without their attac
ain will be of short duration. But
erned as to leave them neither priv
for by a revolution, should they ha
fear from a separation, the cause of
national strength will be derived fro
of time many national and mutual
connection.

But I must further observe that wl
be granted without delay. Delay a
and factious men to poison whatever
of the crown, and to arrogate to their
of all the free but tardy bounties of
they too frequently are suffered to u
of the people, which, once estranged
return unimpaired, and are easily em

Otto to Montmorin, New

In consequence of the treaty of pe
States all the territory this side of th
first parallel, the Georgians have th
take possession of a part of the te
most powerful nations of the interio
iards renders more daring; and alt
dary treaties with these savages, th
in observing them.

This state, my lord, thus finds itse
government of West Florida. One
M. Gardoqui that the inhabitants of
the negro kidnappers of Georgia.

Several companies have been for

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chase from congress whole districts of several millions of acres; they receive stockholders from all quarters, and inasmuch as the payments may be made in paper of the continental loan, many French holders of these bills have joined them.

An acre costs the equivalent of three francs. A very large settlement has been made on the Mississippi, between the Illinois river and that of the Kaskaskias; it is proposed to build a town nearly opposite the Missouri, whither they count upon attracting all the fur trade which descends that great river.

There is always something of the wonderful in these projects, but there is perhaps no civilized nation which changes its habitation more readily than the Americans, and which founds settlements more rapidly.

A society which has just been incorporated in Massachusetts to send missionaries to the savages, will but hasten the first clearings of these new colonies.

It has been noticed in Pennsylvania that the Quaker savages become good citizens, industrious and contented, and in spreading Christianity among these tribes, their manners may certainly be softened.

In promoting these new settlements, undoubtedly a great service is rendered to humanity, but perhaps it would have been more politic for the United States to render themselves as compact as possible by restricting their limits toward the west.

This state of affairs would certainly be very desirable if the United States would consent simply to follow their natural occupation, agriculture; but this constant emigration toward the west is little in accord with the principles of a nation which aims to play a distinguished rôle, to equip fleets, to extend its commerce to the ends of Asia, to establish manufactures, and to share with European nations the benefits they derive from their colonies.

Carrington to Jefferson, New York, 10 Nov., 1787. Ex.

The legislature have directed that a convention be held in June for the purpose of "adopting, amending, or rejecting" the proposed government. The long postponement was occasioned by unfriendly intentions toward it, but I apprehend the rapidity of the movements of the other states in the business will, by that time, have brought so many into the adoption that even its enemies will see the necessity of joining.

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A. Donald to Jefferson, Richmond, 12 Nov., 1787.

DEAR SIR: Many thanks to you for your very friendly and polite letter of the twenty-eighth July.

You will, no doubt, have seen before this time the result of the deliberations of the convention, which was assembled at Philadelphia last summer for revising and amending the federal constitution. I am sorry to say it is like to meet with strong opposition in this state.

I staid two days with General Washington at Mount Vernon, about six weeks ago; he is in perfect good health, and looks almost as well as he did twenty years ago. I never saw him so keen for anything in my life as he is for the adoption of the new form of government.

As the eyes of all America are turned toward this truly great and good man for the first president, I took the liberty of sounding him upon it. He appears to be greatly against going into public life again, pleads in excuse for himself his love of retirement and his advanced age, but, notwithstanding of these, I am fully of opinion he may be induced to appear once more on the public stage of life.

I form my opinion from what passed between us in a very long and serious conversation, as well as from what I could gather from Mrs. Washington on same subject.

Our assembly are now sitting; they have not yet done much business, but what has been done is highly commendable. They have in very strong and pointed language thrown out a proposal for emitting paper money.

Samuel Powell to Washington, 13 Nov., 1787. Ex.

Our good friends, Messrs. Robert and Gouverneur Morris, left this city yesterday, and will probably be with you before the arrival of this letter. They will be able to give you a full and ample detail of all matters relative to our grand question, I mean the acceptation of the federal constitution. In Maryland there is a secret opposition from a member of the assembly, but it is believed that his politics will not succeed. It is said that R. H. Lee escaped the resentment of the people at Chester by his short stay there, which he employed in fixing up and distributing printed papers against the proposed constitution. At Wilmington he harangued the populace and cautioned them against hastily adopting it, assuring them that a powerful opposition was forming against it in Philadelphia, and, in confirmation of his

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assertions, distributed many of his inflammatory papers. On such conduct there can be but one comment made.

Washington to John Langdon, 3 Dec., 1787. Ex.

The public papers have undoubtedly announced to you before this the proceedings of the legislature of this state upon the business. They have appointed the convention to meet on the first Monday in June; whether putting it off to so late a period will be favorable or otherwise must be determined by circumstances, for if those states whose conventions are to meet sooner should adopt the plan, I think there is no doubt but they will be followed by this, and, if some of them should reject it, it is very probable that the opposers of it here will exert themselves to add this state to the number.

Otto to Montmorin, New York, 7 Dec., 1787.

If the United States, on the score of their political constitution, are still great laggards, they may be compared with the oldest and most intelligent nations in all that tends to make the arts and useful sciences flourish among them.

It does not belong to me to enter into any detail with regard to the great number of societies which have been formed in America, either to superintend the education of the young or to ensure the property of individuals against the ravages of fire, or to encourage poor emigrants and those stripped of their resources, to resuscitate the drowned, to spread Christianity among the savages, to abolish negro slavery, or, at least, to render their chains less galling.

This spirit of benevolence and humanity has spread among all the American institutions, and I at times regret that I cannot represent to you these people under that interesting point of view which is most favorable to them.

But it is not equally foreign to my task to submit to you the incentives offered to many industries or manufactories the growth of which may at some time prove of interest to the commerce of Europe, either because it will thereby lose a branch of its former trade, or because it will there find a new market of raw materials for its own manufactures.

Many states of the union already contain, my lord, respectable societies to promote certain industrial objects peculiar to them, but the one which appears to have the largest means and the most comprehen-

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sive plans is the Philadelphia society. Since the high price of hand labor has hitherto been the greatest obstacle in the establishment of manufactures, the society offers a prize to whoever will invent a machine which, by means of fire, water, or any other agent, will be able to lessen hand work in cotton, wool, linen, and flax, and to render their manufacture as cheap as in Europe.

It proposes considerable prizes to those citizens who, in the course of the year 1788, shall have cultivated and prepared the greatest quantity of flax, of linen, and of cotton, for those who shall have manufactured the most beautiful calicoes or prints, who shall have printed the finest book on types and paper manufactured in Philadelphia, who shall have made the most beautiful pottery equal to that of Delft or England, to those who shall have established the best glass factories, and to those, finally, who shall have offered for sale the greatest quantity of potash and pearl ashes, who shall have made from their own flocks the finest clip of wool, who shall have bleached the greatest quantity of candle-wax fit for exporting.

The society offers a still larger prize to those who may be able to prove incontestably that they have taken from the mines and from the soil of Pennsylvania the largest quantity of painters' colors, as well as to those who, before the first of January, 1789, shall have manufactured the greatest number of anvils of the best quality, comparable to those hitherto imported from England.

If to these efforts we add those of the societies which have been formed to render navigable the Potomac, the Susquehanna, and other important rivers, to construct bridges, to send out colonies into the west, to found business houses in China, in the Indies, and at Mogadore, to fish for the whale at the Falkland Islands, or to follow the track of Cook as far as Behring's Straits, we cannot but admire their courage, their industry, and that intelligence which causes them to conceive the mightiest schemes and to execute them with limited means.

The disposition of the United States, my lord, to shake off the commercial yoke of Europe can only affect Great Britain, which loses every year a certain part of its trade with America.

The identity of language and of manners may, I confess, promote connections, but it has this peculiar result: that the discoveries made in England become at once common to the United States, that workmen are easily transported, and produce in Philadelphia or in Boston as

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perfect work as in London. This is not true of the articles which France may be able to furnish to these states.

The wines, brandies, and silks, it would seem, ought to assure us here for a long time a considerable market.

The reflections which I have just had the honor of submitting to you scarcely conform to the vague and exaggerated reports with which almost all the European and American publications are flooded in regard to the situation of the United States.

They confound the uncertainty of a people which has not yet chosen its form of stable and permanent government with disorder and internal anarchy ; but this uncertainty is only felt abroad or in their political discussions without affecting in any way the tranquillity and industry of the citizens.

The partisans whom England still has in America, and of whom some are infatuated enough to hope for a reunion of the two countries, make haste to confirm these false news ; perhaps, too, England, having more to fear from emigrations, is interested in representing this country under a point of view the most disadvantageous ; but if one studies ever so little the general prosperity, individual comfort, the well-nigh inconceivable growth of all parts of the republic, one is tempted to believe that of all the countries of the world, this one has taken the longest strides toward opulence and formidable power.

Otto to Montmorin, New York, 15 Dec., 1787. Ex.

We learn that the general convention of the state of Delaware has unanimously ratified the new constitution.

That small state has the honor of having given the first signal of a revolution in the general government of the United States, and its example can but produce a good effect in the other conventions.

The legislature of Virginia, in ordering the election of a general convention, has voted at the same time for the choice of several commissioners to be sent to the other states in case the convention should decide to propose certain amendments to the new constitution. This resolution, adopted by a large majority, appears to be of bad omen.

The news from Georgia, my lord, continue to be very alarming. The Creeks perpetrate unheard-of cruelties on the inhabitants. Half of the militia has received orders to march, and the state is striving to raise four regiments of seven hundred and fifty men each. Fifteen hundred citizens of the little state of Frankland have agreed to make

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common cause with the Georgians, who have sent a commissioner to the Spanish governors to beg them not to give aid to their enemies. This measure is the more prudent as it is only from the two Floridas that the Creeks can obtain their arms and munitions of war. Mr. Gillivray, a violent royalist whose property was confiscated by the state of Georgia during the revolution, is at the head of the savages, governs them like a king, and joins to the boldness of the savage the education and knowledge of a statesman. I am, etc.

Edm. Randolph to Washington, Richmond, 27 Dec., 1787.

The enclosed pamphlet[1] speaks so fully for itself that any explanation of it from me would be useless. I send it to you because I know your friendship for the writer, and because I take pleasure in subscribing myself at all times with unfeigned truth, my dear sir, your obliged friend and servant.

Washington to Lafayette, 10 Jan., 1788. Ex.

In my private opinion I have no hesitation to believe there will be a clear majority in favor of the new constitution in Virginia.

Knox to Washington, New York, 14 Jan., 1788. Ex.

Connecticut has adopted the constitution by a noble majority of one hundred and twenty-seven to forty. This event took place on the ninth instant. I call the majority a noble one because it included every character in the convention of any real importance excepting General James Wadsworth, whom you may remember as commandant of a brigade of Connecticut militia in the year 1776. Colonel Wadsworth writes me that the present governor and lieutenant-governor, the late governor, the judges of the supreme court, and the council, were at the convention, and all for the constitution excepting James Wadsworth.

Washington to John Francis Mercer, Esq., 14 Jan., 1788. Ex.

Mr. White's letter is returned to you, and I should be glad to know precisely whether I am to expect any and what part of the two hundred pounds on which you assured me in Philadelphia I might absolutely rely, and the half of which you informed me in November should be sent to me by your servant in ten days, if you could not

[1] Randolph's letter of tenth October, on his refusal to sign the constitution.

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get the residue. I have put the sheriff of this county off three times. If he comes again I must, if I have no further expectation from you, suffer him to make distress, as I raised nothing last year for sale, and allotted this money for the payment of my taxes.

Count de Rochambeau to Washington, 18 Jan., 1788. Ex.

Poor Count de Grasse, our colleague in the expedition against Cornwallis, is dead the day before yesterday of an apoplexy. He had an unhappy end—the pains he had after his unlucky fighting of the twelfth of April, and having being lately married again with a woman of bad a character—all that occasioned him a great sorrow. I made all it has been in my power to soften his pains, but by the vivacity of his head he did take always violent parts, which spoiled all what his friends could make in his favor.

I long, my dear general, to see your convention passed upon the plurality of the states, and to see you president of a confederation strongly settled.

Washington to Samuel Powell, Mount Vernon, 18 Jan., 1788. Ex.

Dear Sir: North Carolina has, it seems, postponed the meeting of its convention to a later period than that of Virginia, which indicates, I conceive, a disposition to take the tone from hence.

Ed. Carrington to J. Madison, Richmond, 18 Jan., 1788. Ex.

My dear Sir: I arrived here on Wednesday night last; have as yet had but little opportunity to sound the people in any part of the country upon the constitution. The leaders of the opposition appear generally to be preparing for a decent submission; the language among them is, that amendments must be tried if there should, at the sitting of the convention, be a prospect of carrying them down in a respectable number of states, but that should this appear improbable, the constitution must be adopted. I have seen but few of these gentlemen, but have good information as to most of their dispositions upon the subject. The governor's letter to the public, which you doubtless have before this seen, marks out this conduct, and I think that publication will be of great service. Mr. Henry, it is said, is determined to amend, and leave the fate of the measure to depend on all the other states conforming to the will of Virginia. His language is that the other states cannot do without us, and therefore we can

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dictate to them what terms we please. Should they be weak enough to stand out, we may alone enter into foreign alliances. The staple is such that any nation will be ready to treat with us separately; I have not heard of any who have shown a disposition to go this length with him, except Mr. Bullet, whom I saw at Dumfries, and I think at the day of trial but few will be found so mad.

Mr. B. Randolph, whose apprehensions from the gigantic features in the constitution appear to be as high as any whatever, is of opinion with the governor. He thinks that should nine states have adopted when the convention of Virginia meets, every idea of amendment ought to be abandoned; but that should there be a less number, the attempt must be made, but with such caution as not to hazard entirely the fate of the measure. I am persuaded that this will become the prevailing sentiment among the malcontents; and in that case there will be tolerable safety, because I see no prospect of more than Rhode Island, New York, and North Carolina holding out. The latter, it is said, and I believe with truth, has, out of respect for Virginia, deferred her convention until after the time appointed for ours to sit.

Washington to Charles Carter, Mount Vernon, 20 Jan., 1788. Ex.

Dear Sir: Your favor of the twenty-first of last month came to my hands last night only. I wish it had reached me in time for the prevention of the hasty and indigested sentiments of my former letter going to the press, not, as I observed in my last, because I had the least repugnance to the communication of them in a proper dress, accompanied with reasons for their support, if any person whatever was desirous of knowing them.

22 Jan.—I am satisfied you had no agency in publishing the extract of my letter to you, which is now to be traced through all the newspapers.

James Madison, Sr., to Colonel James Madison, Jr., 30 Jan., 1788. Ex.

I have deferred writing to you till I saw our delegates after their return from the assembly, that I might more fully inform you of their sentiments of the proposed constitution. I have only seen Major Burnley at court on Monday last, but did not hear him say anything about it. He disapproves of it, but says very little about it, probably as he does not intend to offer his service for the convention; he may hurt his interest in the election for delegates to the assembly, for

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which he intends to offer, if he opposes the adoption of the new constitution too warmly. Colonel Barbour I have not seen; he was not at court; probably was preparing for his mother's funeral, who was to be interred the day after. He is much opposed to it, and is a candidate for the convention. "I believe there were but four that disapproved of it at first in this county; but several being at Richmond with their tobacco at the time the assembly was sitting, and hearing the many objections made to it, altered their opinions, and have influenced some others who are no better acquainted with the necessity of adopting it than they themselves; and the pieces published against it have had their intended effect with some others.

The Baptists are now generally opposed to it, as it is said. Colonel Barbour has been down on Pamunky among them, and on his return, I hear, publicly declared himself a candidate, I suppose, on the encouragement he met with from the anti-federalists. I do not know at present any other candidates but yourself and Mr. Gordon, who is a warm friend to the constitution, and I believe no others that are for it will offer. I think you had better come in as early in March as you can. Many of your friends wish it; there are some who suspend their opinion till they see you, and wish for an explanation; others wish you not to come, and will endeavor to shut you out of the convention, the better to carry their point.

Mr. R. H. L.'s letter to the governor is much approved of by some, and as much ridiculed by others; and so is the reasoning and representation of the minority of the Pennsylvania convention. I am your affectionate father, JAMES MADISON.

William Moore to James Madison, Orange, 31 Jan., 1788.

DEAR SIR: From the foregoing information of your father, of the fluctuating sentiments of the freeholders of this county on the constitution proposed by the convention at Philadelphia, and the arts of some men in this county to mislead the people whose interests, you know, are repugnant to a government that will administer justice, safety, protection, and true liberty to the good and virtuous citizens of America, and as you well know the disadvantage of being absent at elections to those who offer themselves to serve the public, I must therefore entreat and conjure you—nay, command you, if it was in my power—to be here in February or the first of March next. If you do, I think your election will be certain (if not, I believe, from reports, it

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will be uncertain), and you will in that case be able to silence the disaffected, and give that assistance to the constitution that your knowledge of it, and the necessity of such establishment to the well-being and future prosperity of America. However, sir, be assured that the friends of the constitution will promote your interest at any rate. But let me repeat it again, as a lover of your country, pray don't disappoint the wishes of your friends and many others who are wavering on the constitution, that are anxiously waiting for an explanation from you. In short, they want your sentiments from your own mouth, which, they say, will convince them of the necessity of adopting it. I am, my dear sir, yours affectionately, etc.

P. S.—I repeat again, come.

Washington to John Fowler, 2 Feb., 1788. Ex.

Sir: I have received your letter of to-day, and in answer to it must inform you that I have no inclination to purchase the negro fellow which you mention, as I have already as many slaves as I wish, and I cannot engage to give another, or others, in exchange for him, because I do not think it would be agreeable to their inclinations to leave their connections here, and it is inconsistent with my feelings to compel them.

Jefferson to W. Smith, Paris, 2 Feb., 1788. Ex.

Dear Sir: I am glad to learn, by letters which come down to the twentieth of December, that the new constitution will undoubtedly be received by a sufficiency of the states to set it agoing. Were I in America, I would advocate it warmly till nine should have adopted, and then as warmly take the other side to convince the remaining four that they ought not to come into it till the declaration of rights is annexed to it; by this means we should secure all the good of it, and procure as respectable an opposition as would induce the accepting states to offer a bill of rights; this would be the happiest turn the thing could take. I fear much the effects of the perpetual re-eligibility of the president, but it is not thought of in America, and have, therefore, no prospect of a change of that article, but I own it astonishes me to find such a change wrought in the opinions of our countrymen since I left them, as that three fourths of them should be contented to live under a system which leaves to their governors the power of taking from them the trial by jury in civil cases, freedom of religion,

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freedom of the press, freedom of commerce, the *habeas corpus* laws, and of yoking them with a standing army: that is a degeneracy in the principles of liberty to which I had given four centuries instead of four years, but I hope it will all come about. We are now vibrating between too much and too little government, and the pendulum will rest finally in the middle. Adieu. Yours affectionately.

John Jay to George Washington, 3 Feb., 1788. Ex.

A few months more will decide all questions respecting the adoption of the proposed constitution. I sincerely wish it may take place, though less from an idea that it will fully realize the sanguine expectations of many of its friends than because it establishes some great points, and smooths the way for a system more adequate to our national objects.

Jefferson to Madison, Paris, 6 Feb., 1788. Ex.

DEAR SIR: I am glad to hear that the new constitution is received with favor. I sincerely wish that the nine first conventions may receive, and the four last reject it. The former will secure it finally, while the latter will oblige them to offer a declaration of rights in order to complete the union. We shall thus have all its good and cure its principal defect. You will, of course, be so good as to continue to mark to me its progress.

Monroe to Madison, Fredericksburg, 7 Feb., 1788. Ex.

This new constitution still engages the minds of people with some zeal among the partisans on either side. It is impossible to say which preponderates. The northern part of the state is more generally for it than the southern. In this county (except in the town) they are against it, I believe, universally. I have, however, this from report only, having not been from home. My late colleague is decidedly so. Mr. Page is for it, and forms an exception to the above. It is said here that Georgia has adopted it—New Hampshire also. Our object in the postponement of the meeting of our convention to so late a day was to furnish an evidence of the disposition of the other states to that body when it should be assembled. If they, or many of them, were against it, our state might mediate between contending parties and lead the way to a union more palatable to all. If all were for it, let the knowledge of that circumstance have its weight in their de-

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liberations. This, I believe, was the principle on which that measure was adopted, at least, those whose sentiments I knew expressed it to be theirs.

General Knox to R. R. Livingston, New York, Sunday, 10 Feb., 1788.

DEAR SIR: I send you a summary statement of my last information from Boston. In a few days I expect to be able to congratulate you on the adoption of the new constitution by Massachusetts. On Wednesday, the thirtieth ultimo, Mr. Hancock was well enough to take his seat in the convention. On Thursday he brought forward the proposition for adopting the constitution, and for recommending certain alterations agreeably to the paper herein enclosed. The propositions were seconded by Mr. Samuel Adams, and committed to a large committee of two members from each county, a majority of the committee being federalists. As the propositions were the production of the federalists after mature deliberation, there cannot be a doubt that the committee will report in favor of the propositions as they are stated. The final question was most certainly taken in the convention somewhere between the fifth and eighth instant. The members of the convention and others who wrote to me on the third instant have no doubt with respect to the adoption of the constitution, but they do not flatter themselves with a large majority. I am, with great esteem, dear sir, your most obedient, humble servant, etc.

A most perfect union was effected between the friends of Mr. Hancock and Mr. Bowdoin. Handsome things are said of the open and decisive conduct of Mr. Hancock, and also of Mr. S. Adams, notwithstanding his neutrality in the first part of the business. Please to let Mr. Benson see this letter. I am, with great esteem, dear sir, your most obedient, humble servant, etc.

C. Griffin to Thomas Fitzsimons, New York, 15 Feb., 1788.

Colonel R. H. Lee and Mr. John Page, men of influence in Virginia, are relinquishing their opposition; but what to us is very extraordinary and unexpected, we are told that Mr. George Mason has declared himself so great an enemy to the constitution that he will heartily join Mr. Henry and others in promoting a southern confederacy.

John Langdon to Rufus King, Portsmouth, 23 Feb., 1788.

DEAR SIR: I am sorry to inform you that our convention adjourned yesterday (to meet again in June next) without completing the im-

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portant business of adopting the constitution. Contrary to the expectation of almost every man of reflection, at our first meeting a majority appeared against the plan, a great part of whom had positive instructions to vote against it. However, after spending ten days on the arguments, a number of opponents came to me and said they were convinced, and should be very unhappy to vote against the constitution, which they (however absurd) must do in case the question was called for. I therefore moved for the adjournment, which was carried, though much opposed by the other side. This question determined a majority in favor of the constitution, had it not been for their instructions. This shows the fatality of the times.

Knox to Washington, New York, 10 March, 1788. Ex.

The business in this state is critically circumstanced, and the parties nearly balanced. The issue will depend greatly on the industry of the different sides. I am apprehensive that the anti-federalists will be the most indefatigable. The federalists say they shall have a small majority certainly, but it is to be apprehended that their confidence will prove highly injurious to the cause.

B. Lincoln to Washington, Boston, 19 March, 1788. Ex.

Your Excellency will recollect that our last house of assembly was chosen under the influence of the insurgents, most of whom are against the proposed constitution at the least. Had it been submitted to our house of representatives, it would have been negatived. We had different men in our convention; they were chosen at a time when the spirit of insurgency had, in a degree, subsided.

Jay to Washington.

Mr. Jay presents his compliments to his Excellency, General Washington, and sends him herewith enclosed the first volume of The Federalist.—24 March, 1788.

Washington to General B. Lincoln, 2 April, 1788.

I am not able to give you any more satisfactory information upon the subject than when I wrote last to you. This, however, I may say, that the northern or upper countries are generally friendly to the adoption of the government, the lower are said to be generally unfriendly, the sentiments of the western parts of the states are not

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fully known, but no means have be
against the system; every art that
the interests of men have been essa
that, should the proposed governm
taken from them and their property
formed that the prohibition of the n
favorite object) will be a certain co
constitution. But, notwithstanding
tations, I have the fullest confidence

Ed. Carrington to J. Madison,

I congratulate you upon the succes
turn the sinners of Orange from their
from being anti, are become entirely

Most of the elections in the uppe
side of James river have been made i
utations of weak and bad men, who
in the negative, and will, in all cases

I have had much conversation wi
the constitution, but dreads the co
that he is determined to place us i
least degree hazard such an event.

Charles Lee to Washington,

With regard to the proposed con
papers have mispublished the deleg
ernor informs me that they are to a
be fixing in favor of it.

Cyrus Griffin to Madison, Ne

In point of virtues and real abilit
superior. Henry is mighty and pov
too passionate, the governor by natu
son too blustering.

Samuel H. Parsons to Washingtc

I am now on my road to the
Ohio; and take this only method
Excellency, and to assure you of

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happiness. I view the adoption of the present plan with all its imperfections as the only means of preserving the union of the states and securing the happiness of all the parts of this extensive country; I feel myself deeply interested in this subject, as it will affect the country of which I am now commencing an inhabitant. I am sure it must ever be our interest to continue connected with the Atlantic states. Our new settlement progresses rapidly; two hundred families will be within our city by July, and I think we are sure of a thousand families from New England within one year if we remain in peace.

Ed. Carrington to J. Madison, New York, 23 April, 1788. Ex.

The business of the constitution, as referred to the town meetings of Rhode Island, is over without producing any effect. Three of the towns were decidedly for calling on the legislature to appoint a convention according to the mode prescribed, and this it seems from friendly views to the measure.

The remaining towns have done nothing decisive of their sentiments. A few of them have apparently voted against it, but it is said, and I believe with truth, that the reason votes do not appear in favor, is that the friends objected so directly against the mode of proceeding that they would not act at all. In some others there are votes both for and against, and at the same time propositions for insisting on the legislatures calling a convention. Upon the whole, it is a perfectly decided matter that Rhode Island will not be among the adopting states by June.

We have no congress, but it is expected we shall have one in a few days. This is a trifling business, which I long to see an end of.

E. Carrington to Jefferson, New York, 24 April, 1788. Ex.

In New York and Virginia very active opposition is made, and the event is uncertain; in the latter it will depend much upon the ideas entertained in convention as to the issue in New Hampshire, whose reassembling is to be after the meeting in Virginia. I am certain that a great majority of our convention will be for adopting, upon being ascertained that nine states will adopt, as much worse apprehensions are held from the event of a disunion than from anything that is in the constitution. We have a party that is truly anti-federal, headed by Mr. Henry, but it will be limited to a few, unless the federalists who are for amendments should, from a mistaken view of the proba-

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bility of the measures being carried into effect by nine states, be drawn into steps favoring the anti-federal scheme. Mr. H. does not openly declare for a dismemberment of the union, but his arguments in support of his opposition to the constitution go directly to that issue. He says that three confederacies would be practicable, and better suited to the good of commerce than one. God forbid that I should ever see the trial made. Virginia would fall into a division from which she might add to her burdens, but could never derive aid of any kind.

It would have afforded me much pleasure to have seen your sentiments fully upon this subject, but, Mr. Madison having gone to Virginia before my return to this city, I have not seen your letter to him as yet.

I feel sensibly for your situation with our numerous and too justly discontented foreign creditors, nor do I see a prospect of relief before the new government shall get into operation, which must still require some time.

Washington to James McHenry, 27 April, 1788. Ex.

As you are pleased to ask my opinion of the consequences of an adjournment of your convention until the meeting of ours, I shall (though I have meddled very little in this political dispute—less, perhaps, than a man so thoroughly persuaded as I am of the evils and confusions which will result from the rejection of the proposed constitution ought to have done) give it as my sincere and decided opinion that the postponement of the question would be tantamount to the final rejection of it; that the adversaries of the new constitution, Virginia and Maryland, view it in this light, and they will press for the accomplishment of this measure as the dernier resort, I have very good reason to believe. To adduce arguments in support of this opinion is as unnecessary as they would be prolix. They are obvious, and will occur to you on a moment's reflection.

Though the period to which the adjournment in New Hampshire was fixed had no respect to the meeting of the convention in this state, but was the effect solely of local circumstances within itself, yet the opposition here ascribe it wholly to complaisance toward Virginia, make great use of it, and undertake to pronounce that all the states thereafter, whose conventions were to precede hers, will pursue the same line of conduct, and, of course, that those which are to follow

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will receive the tone from it. Should Maryland fulfil this prognostic, South Carolina may indeed be staggered, and the prediction of the foes to the constitution will thereby be realized; for the assertion, so far as it respects North Carolina, may with some truth, I believe, be applied, while the opposition in New York, it is well known, will avail itself of every pretext for rejection.

The sentiments of the western district of this state are not yet brought to my view. Independently thereof the majority, so far as the opinions of the delegates are known or presumed, is in favor of the adoption and is increasing; but as the parties, from report, are pretty equally poised, a small matter cast into either scale would give it the preponderancy. Decisions or indecisions then with you will, in my opinion, determine the fate of the constitution, and with it whether peace and happiness or discord and confusion is to be our lot. The federalists here see and deprecate the idea of the latter, and their opponents are doing all they can to encourage it, as their last hope. Thus stands the matter in my eyes at present.

Washington to Dan. of St. Thomas Jenifer, Mount Vernon, 27 April, 1788.

DEAR SIR: Accept my thanks for the obliging information contained in your letter of the fifteenth instant. The great, the important question must ere this have received its first features in, if not the fiat of, your convention.

If they are decisive and favorable, it will most assuredly raise the edifice. Seven affirmative, without a negative, carries weight with them that would almost convert the unerring sister, and yet—but in place of what I was going to add—I will say that I am, dear sir, etc.

Dan. Carroll to Madison, Georgetown, 28 April, 1788. Ex.

If the Anne Arundel county election had not taken the extraordinary turn it did, I may say with certainty there would not have been a show of opposition. Perhaps the adoption would have been unanimous.

Georgetown, eod. die.—I am just informed, from good authority, that the question was taken on Saturday evening. The constitution adopted by sixty-three against eleven. No amendments will be proposed, even in the constitutional manner. Great illuminations have taken place at Annapolis, the members having given one guinea for that purpose.

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Gouverneur Morris to Washington, Richmond, 29 April, 1788.

It may not be quite unsatisfactory to receive even conjecture on a subject whose importance is great and when situation precludes evidence. As far as one who avoids much enquiry can judge, I am led to decide that the opposers to the new constitution are fewer and more feeble than they were in this quarter, and would almost venture to predict that, if South Carolina and Maryland shall be tolerably unanimous in the adoption, particularly the latter, the convention of this state will not long hesitate. I am mistaken if some leaders of opposition are not more solicitous in the present moment how to make a good retreat than how to fight the battle. It is, you know, a sad thing for a great and deep politician to make a great blunder, and fall in a deep ditch, and yet this may easily happen when men walk on bad ground. Adieu.

Washington to Madison, Mount Vernon, 2 May, 1788. Ex.

The body of which you supposed Mr. D. Carroll a member, by a large [60 odd to 12] and decided majority, have ratified the new constitution. A thorn in the sides of the leaders of opposition in this state. Should South Carolina give as unequivocal approbation of the system, the opposition here must become feeble, for eight affirmatives without a negative carries weight of argument if not eloquence with it that would cause even the unerring sister to hesitate. Mr. Chase, it is said, made a display of all his eloquence. Mr. Mercer discharged his whole artillery of inflammable matter; and Mr. Martin [*sic*] I know not what—perhaps vehemence—but no converts were made, no, not one, so business after a very short session ended; and will, if I mistake not, render yours less tiresome.

John Langdon to Rufus King, Portsmouth, 6 May, 1788.

My dear Sir: I am honored with your kind favor of the sixteenth ultimo, enclosing the address to the people of New York, which is greatly admired here. I shall take great care to circulate this and all other pieces that will give light to the subject. You may depend every exertion shall be made that is capable to promote the adoption of the constitution, and I have no doubt, notwithstanding our late disappointments and mortification, we shall finally prevail and thereby make the people happy in spite of their teeth, as the saying

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is. I think affairs to the south look well. Maryland will certainly adopt the plan, and I have but little doubt of South Carolina. We must watch and pray for Virginia and North Carolina. I cannot help thinking but they will both agree to it. New York and New Hampshire must agree to the plan, which will complete our business.

The state of Georgia ceding that territory to the United States under certain restrictions will have very good effect. Pray make my kind respects to your lady, not forgetting the little bantling, also my respects to Mr. Alsop.

Carrington to Jefferson, New York, 14 May, 1788. Ex.

My dear Sir: Mr. Barlow, of Connecticut, will have the honor to call on you with this letter. I have not the pleasure of a personal acquaintance with him, but his literary talents have considerably distinguished him as a poetical as well as prose writer, and he is introduced to me as a gentleman deserving your countenance; permit me to recommend him to your attention and civilities. He conducts to the Marquis de Lafayette the eldest son of our illustrious friend General Greene, who is sent at the particular request of that noble man to receive his education under his direction in France. I have given the little fellow a few lines to you, and directed him to deliver them in person; it is unnecessary for me to solicit for him the attention of one who so well knew his father.

Doctor John Lathrop to Washington, Boston, 16 May, 1788. Ex.

We are looking with vast expectation and hope to your ancient and venerable state. Massachusetts, in the most difficult and trying times, prided herself in acting in strict concert with Virginia; we hope to be united with her and all the sister states in that form of government which, with all its imperfections, has more to recommend it than any constitution formed heretofore by the wisdom of men.

McHenry to Washington, Baltimore, 18 May, 1788. Ex.

You will have concluded, from the address of our minority, that the convention were a little embarrassed on the subject of amendments. A very good friend of yours, for whom I have the greatest respect, brought us into the difficulty, and we were obliged to leave him to get out of it. The amendments were intended to injure the cause of fed-

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eralism in your state, and, had we agreed to them, they were well calculated to effect it.

Knox to Washington, New York, 25 May, 1788. Ex.

In this state it appears to be conceded on the part of the federalists that numbers will be against them in the convention, but they hope so many states will previously have adopted the constitution that they shall prevail. It is, however, doubtful. The party against it in this state are united under the auspices of the governor, and he is supposed to be immovable, and yet one would think they could not persist in an opposition fraught with the most deadly consequences. The elections will be known in a few days, when a better judgment will be formed than at present.

Colonel Smith has lately arrived from England, and informs that Dr. Price and all the friends of liberty in Great Britain highly approve the constitution, and ardently wish its adoption. Mr. John Adams, who probably has arrived in Massachusetts, is exceedingly pleased with it, and thinks it the first production ever offered to the human race. It is spoken of by the English ministry as an admirable form of government, and which, if adopted, will place the American character in a new point of view highly deserving respect.

Cyrus Griffin, President of Congress, to Thomas Fitzsimons, New York, 26 May, 1788. Ex.

Messrs. Jefferson and Adams have been able to borrow for the United States another million of florins in Holland, upon the prospect of the new constitution being established; but, as congress have not yet ratified the contract, it may remain with you.

Mr. Jefferson seems to think that the war in Europe will be general, but no positive judgment can be drawn from such a chaos of politics as that part of the world now exhibits.

The British courtiers are ridiculing our situation very much, and tell Mr. Adams, in a sneering manner, when America shall assume some kind of government, then England will speak to her.

Washington to the Marquis de Lafayette, Mount Vernon, 28 May, 1788. Ex.

A few short weeks will determine the political fate of America for the present generation, and probably produce no small influence on

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the happiness of society through a long succession of ages to come. Should everything proceed with harmony and consent, according to our actual wishes and expectations, I will confess to you sincerely, my dear marquis, it will be so much beyond anything we had a right to imagine or expect eighteen months ago, that it will demonstrate as visibly the finger of Providence as any possible event in the course of human affairs can ever designate it. It is impracticable for you, or any one who has not been on the spot, to realize the change in men's minds, and the progress toward rectitude in thinking and acting, which will then have been made.

Adieu, my dear marquis. I hope your affairs in France will subside into a prosperous train without coming to any violent crisis.

President Griffin to Thomas Fitzsimons, New York, 16 June, 1788. Ex.

I am not a little happy that the important business of the proposed constitution is going on so well in Virginia. Governor Randolph's recantation, though embarrassing enough with respect to himself, may produce some pleasing consequences.

New Hampshire will certainly adopt the system. About two thirds of this state are at present in opposition—but the federal members expect to convert a great number—and, from good authority, I am told that Governor Clinton thinks it absolutely necessary that New York should adopt the measure also. Governor Collins and some of the leading men of Rhode Island are advocates for the plan now. From the appearance of things, taken altogether, we have good reason to conclude that the union will be complete.

Ed. Carrington to Madison, New York, 17 June, 1788.

We may calculate with certainty upon a considerable majority, from the facts you communicate. It is impossible that the present critical state of the business, and the consequent responsibility of Virginia to humanity for her conduct under such circumstances, should not have inclined most of the opposition, who can discern the hazard of persevering, to follow Governor Randolph in taking the other side.

The convention of New York is now assembling at Poughkeepsie. The anti-federalists, who are indeed the majority, have received a shock from the accounts from Virginia.

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Jonathan Trumbull to Washington, 20 June, 1788. Ex.

The triumph of federalism has been great in Connecticut since last winter. The opposition which then existed is now dwindled into mere unimportance. At our late elections—which you know, sir, are formed by the people at large—a General Wadsworth, who was the champion of opposition in our convention, lost his place as an assistant by great odds. His seat at the council board was filled by Colonel Chester, late speaker of our house of assembly—a gentleman of independent, liberal sentiments, and a firm friend to general government. Your old secretary being placed in the speaker's chair, on the removal of Colonel Chester, is an additional blow to opposition; and he being considered as a warm supporter of the federal interest, a fast friend to the army and to public justice, this event had its influence toward completing the triumph.

John Langdon to Rufus King, Concord, 21 June, 1788.

Dear Sir: The state of New Hampshire have this moment adopted the federal constitution; fifty-seven yeas, forty-six nays. I have sent on the express to Springfield, to Mr. Smith, to forward Colonel Hamilton's letter to Poughkeepsie, which I enclosed him. Excuse haste. Believe me yours, etc.

John Langdon to Hamilton, Concord, 21 June, 1788.

Dear Sir: By the desire of our mutual friend, Rufus King, Esq., I have the great pleasure and satisfaction of informing you that this state has this day adopted the federal constitution. This all-important question was carried by a majority of eleven—fifty-seven yeas, forty-six nays. Excuse haste.

P. S.—This letter goes to Springfield by an express, which I have sent for this purpose, to the care of William Smith, Esq., of that place, who is to forward it to you.

Washington to Madison, 23 June, 1788. Ex.

I hear with real concern of your indisposition. At Fredericksburg (on a visit to my aged and infirm mother) I learned that you intended to proceed immediately from Richmond to New York. Relaxation must have become indispensably necessary for your health, and for that reason I presume to advise you to take a little respite from busi-

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ness, and to express a wish that part of the time might be spent under this roof in your way thither. Moderate exercise, and books occasionally, with the mind unbent, will be your best restoratives. I can assure you, with much truth, that none will be happier to see you than yours, etc.

Gen. Schuyler to his son, John Bradstreet Schuyler, Poughkeepsie, Thursday, 26 June, 1788. Ex.

My dear Child: The adoption of the constitution by New Hampshire, although it will be the means of ultimately bringing this state into the union, and although it has disappointed the expectations of those who are averse to the constitution, yet I have no reason to conclude that it is attended with such effect as to induce the convention to adopt the constitution otherwise than with previous amendments. Perhaps they may adjourn under pretence of taking the sense of their constituents, but this is very problematical.

The debates are not yet published; when they shall be promulgated and read, the candid will acknowledge that those of the Chancellor, Messrs. Jay, Harrison, and Hamilton ought to have carried conviction. Mr. Duane has not yet spoken, but he also will do justice to the cause. Though all are eloquent, yet Hamilton [MS. worn away] ad his sentiments are so true, his judgment so correct, his elocution so pleasing, so smooth, and yet so [forcible], that he reaches the heart and carries conviction, where every avenue to conviction is [not] shut up. Alas! I fear there are too many who labor under this prejudice.

J. B. Cutting to Thos. Jefferson, London, 11 July, 1788. Ex.

It is not a solecism to say that the opposition to a thorough reform of the federal government began in Maryland, even before the agitation of the question in the general convention at Philadelphia. Mr. Martin, the attorney-general, who was primarily appointed to that office by Mr. Chase, was by the same influence deputed to represent the state. After Messrs. Carroll, Johnson, etc., etc., the first choice of the legislature declined quitting Maryland even upon the important business of newly framing the national government, Mr. Chase having just before menaced the senate for rejecting a wide emission of paper money, and appealed to the people against them. They had joined in that general issue, and could not venture to relinquish to a violent and headstrong party their active influence in the senate as well as in the

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lower house, at the very moment when it was so essentially needed to stem the torrent of the populace for the paper. Those gentlemen, therefore, remained at home, convinced their fellow-citizens of their superior rectitude and wisdom, and defeated that favorite measure of Mr. Chase. Meanwhile, Mr. Martin, and Mr. John F. Mercer, a young gentleman whom you well know, went to the general convention, opposed the great leading features of the plan which was afterward promulged, withdrew themselves from any signature of it, and from the moment when it was proposed for ratification in conjunction with Mr. Chase, and his sure coadjutor, Mr. Paca, exerted every effort to hinder its adoption.

I have also enclosed, for the same purpose of amusing, the manly proceeding of a Virginia court of appeals. Without knowing the particular merits of the cause, I may venture to applaud the integrity of judges who thus fulfil their oaths and their duties. I am proud of such characters. They exalt themselves and their country, while they maintain the principles of the constitution of Virginia and manifest the unspotted probity of its judiciary department. I hope you will not think me too local or statically envious when I mention that a similar instance has occurred in Massachusetts, where, when the legislature unintentionally trespassed upon a barrier of the constitution, the judges of the supreme court solemnly determined that the particular statute was unconstitutional. In the very next session there was a formal and unanimous repeal of the law which, perhaps, was unnecessary.

Monroe to Jefferson, Fredericksburg, 12 July, 1788. Ex.

Dear Sir: Although I am persuaded you will have received the proceedings of our convention upon the plan of government submitted from Philadelphia, yet as it is possible this may reach you sooner than other communications, I herewith enclose a copy to you. They terminated, as you will find, in a ratification which must be considered, so far as a reservation of certain rights go, as conditioned with the recommendation of subsequent amendments. The copy will designate to you the part which different gentlemen took upon this very interesting and important subject. The detail in the management of the business, from your intimate knowledge of characters, you perhaps possess with great accuracy, without a formal narration of it. Pendleton, though much impaired in health, and in every respect in the decline of life,

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showed as much zeal to carry it as if he had been a young man. Perhaps more than he discovered in the commencement of the late revolution in his opposition to Great Britain. Wythe acted as chairman to the committee of the whole, and, of course, took but little part in the debate, but was for the adoption, relying on subsequent amendments. Blair said nothing, but was for it. The governor exhibited a curious spectacle to view; having refused to sign the paper, everybody supposed him against it; but he afterward had written a letter, and having taken a part which might be called rather vehement than active, he was constantly laboring to show that his present [position was] consistent with that letter and the letter with his refusal to sign. Madison took the principal share in the debate for it, in which, together with the aid I have already mentioned, he was somewhat assisted by Innes, H. Lee, Marshal, Corbin, and A. Nicholas, as Mason, Henry, and Grayson were the principal supporters of the opposition.

The discussion, as might have been expected where the parties were so nearly on a balance, was conducted generally with great order, propriety, and respect of either party to the others, and its event was accompanied with no circumstance on the part of the victorious that was extraordinary exultation, nor of depression on the part of the unfortunate. There was no bonfire illumination, etc., and had there been, I am inclined to believe the opposition would have not only expressed no dissatisfaction, but have scarcely felt any at it, for they seemed to be governed by principles elevated highly above circumstances so trivial and transitory in their nature.

The conduct of General Washington on this occasion has no doubt been right and meritorious; all parties had acknowledged defects in the federal system, and been sensible of the propriety of some material change. To forsake the honorable retreat to which he had retired and risk the reputation he had so deservedly acquired, manifested a zeal for the public interest that could, after so many and illustrious services, and at this stage of life, scarcely have been expected from him. Having, however, commenced again on the public theatre, the course which he takes becomes not only highly interesting to him, but likewise so to us; the human character is not perfect, and if he partakes of those qualities which we have too much reason to believe are almost inseparable from the frail nature of our being, the people of America will perhaps be lost. Be assured his influence carried this government. For my own part, I have a boundless confidence in him, nor have I any

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reason to believe he will ever fur
More is to be apprehended if he
again, as he advances in age, from
than from any dispositions of his ov

In the discussion, an allusion was
by Mr. Henry to an opinion you ha
to Mr. Donald. This afterward be
and debate in the house as to the co
letter, and I was happy to find the
spect with which the opinion was t
and high estimation in which the au

Nathaniel Gorham to Wash

The adoption of the constitution l
a joy through the other states.

Although I am passing rapidly in
to see but a small portion of the h
this system will produce for my co
prosperity will not only be a consol
ties of nature and the growing love
soothe the mind in the inevitable l
objects.

John Jay to Washington, Poug

DEAR SIR: I wrote to you a few
certain propositions, or mode of ado
ing urged, it was withdrawn for th
ceeded to-day in debating on the
Some of the anti-party moved for st
and substituting the words *in full*
one to twenty-nine in the committe
occur, this state will adopt unconditi
to rally their forces and endeavor to

Washington to General Nelson, M

MY DEAR SIR: Far, very far inde
embarrass you by the letters which
general convention, and still farthe
communication should be received

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stance of my attention and friendship. I was well aware that the adoption or rejection of the constitution would be, as it ought to be, decided upon according to its merits, and agreeably to the circumstances to which our public affairs had arrived. That all questions of this kind are, ever will, and perhaps ought to be (to accomplish the designs of infinite wisdom), viewed through different mediums by different men, is as certain as that they have existence; all that can be expected in such cases, therefore, is charity, mutual forbearance, and acquiescence in the general voice; which, though it may be wrong, is presumably right.

Washington to Dr. James Craik, Mount Vernon, 4 Aug., 1788.

DEAR SIR: With this letter you will receive the horse I promised you, and which I now beg your acceptance of. He is not in such good order as I could wish, but as good as my means would place him.

I also send you thirty pounds cash for one year's allowance for the schooling of your son, G. W. I wish it was in my power to send the like sum for the other year, which is now about or near due; and that I could discharge your account for attendance and ministries to the sick of my family, but it really is not; for with much truth I can say I never felt the want of money so sensibly since I was a boy of fifteen years old as I have done for the last twelve months, and probably shall do for twelve months more to come. Sincerely and affectionately, I am yours.

Jefferson to Monroe, 9 Aug., 1788. Ex.

There is another article of which I have no hopes of amendment, because I do not find it objected to in the states. This is the abandonment of the principle of necessary rotation in the senate and presidency. With respect to the last particularly, it is as universally condemned in Europe as it is universally unanimadverted on in America. I have never heard a single person here speak of it without condemnation, because, on the supposition that a man being once chosen will be always chosen, he is a king for life; and his importance will produce the same brigues and cabals, foreign and domestic, which the election of a king of Poland and other elective monarchies have ever produced. So that we must take refuge in the end in hereditary monarchy, the very evil which grinds to atoms the people of Europe.

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I sincerely take part with you in
no other in this world worth living

John Brown to Jefferson, 1

Dear Sir: Your favor of the tw
few days ago, for which accept my
well convinced of the justness of y
tance of strengthening and maintai
district of Kentucky and the maritii

During my residence in that co
cultivate that idea; but I am sorry t
ent complexion of affairs there is rea
tion will not be of long duration. C
cation to be admitted into the union
standing it was acknowledged to be re
in the present state of the confedera
new state might affect the balance of
brought forward at the same time.
people of that country as a great d
have been more than three years in b
and as they are now referred to the
under which in a constitutional mo
with considerable delay. Their vast
ing to at least one hundred thousand
to the great delay and difficulty atte
seat of government, render their con
some that there is every reason to
ing that congress has refused to re
independence. Should they take tl
matical whether or not they will a
confederacy, especially as they ar
constitution, apprehending much in
judicial system, and fearing that t
government may enable [it] to car
with Spain relative to the naviga
the ill-advised attempt to cede the
the foundation for the dismembern
destroying the confidence of the pe
justice of the union, and by induci

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possession of that right by means of any other exertions than their own.

However, as we are informed by the governor of the western territory that there is great reason to apprehend a general Indian war, I hope that Kentucky will see the danger and impropriety of breaking off from the union at this time, and that it may still be in the power of congress to conciliate their minds and to secure their attachment to the confederacy.

I expect to set out in a few days for the western country; shall take pleasure in communicating to you the news of that country by every opportunity. Should you be so good as to honor me with a letter, it will find a ready conveyance from New York to me by post.

Before I conclude this letter I must, in justice to my feelings, express my gratitude for the many favors I have received from you; be assured that they have made a lasting impression upon my mind, and that it is, in a great measure, to your friendship and instruction that I am indebted for my success in life.

Washington to Samuel Powell, 15 Sept., 1788.

Dear Sir: The present congress, by its great indecision in fixing on a place at which the new congress is to convene, have hung the expectations and patience of the union on tenter-hooks, and thereby (if further evidence had been necessary) given a fresh instance of the unfitness of a body so constituted to regulate with energy and precision the affairs of such an extensive empire.

Sept. 23d, Ex.—I am glad congress have at last decided upon an ordinance for carrying the new government into execution. The patience of the union was too long tried for a question of so temporary a nature.

R. R. Livingston to Lafayette, Claremont, 17 Sept., 1788. Ex.

In many of the new states the new plan has met with great opposition, and more particularly in this where the governor headed the opposition with all the weight arising from his office. However, after six weeks laborious debate, we were happy enough to bring over such a number of our opposers as to carry the question for the adoption of the new constitution which has now been acceded to by all the states but North Carolina and Rhode Island, both of which are at present convulsed by the paper money epidemic of which the other states have

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been so lately cured. The plan will now be carried into effect, and I cannot but hope from it such consistency as will give us the weight which our situation and increasing numbers entitle us to.

General Lincoln to Washington, Hingham, 24 Sept., 1788.

I am prompted to wish that Mr. Adams might come in, from the double motive that from his knowledge and rectitude he will be able to render the most essential services to the United States, and that with him your Excellency will be perfectly happy. I am, however, very apprehensive that the anti-federal junta will attempt from sinister views to prejudice your Excellency, and to fix in your mind the most unfavorable ideas of him, and they will endeavor to persuade you that the moment such a connection shall take place, your Excellency must bid adieu to all hope of future happiness in public life. Perhaps these apprehensions are not well founded. I hope they are not; but when it is considered how dangerous your Excellency's administration must be to the views of that party, we cannot suppose that they will stick at anything to prevent its taking place.

I am happy in knowing Mr. J. Adams; my acquaintance commenced with him early in life. Few men can boast of equal abilities and information, and of so many virtues; his foibles are few. I am happy in knowing his sentiments of your Excellency; there is not a virtue in your character which the most intimate of your friends have discovered but it seems to be known and acknowledged by him. I am, from a free conversation with him, as well as from his general character, perfectly convinced that there is not a man in this part of the confederacy, if one can be found through the whole of it, who would render your Excellency's situation at the head of the government more agreeable, or who would make it more his study that your administration should be honorable to yourself, and permanently interesting to the people.

Monroe to Madison, Fredericksburg, 24 Sept., 1788. Ex.

I perfectly agree in the propriety of yielding to the majority respecting the place of residence. If a concession must be made, the minority must make it, and when the states south of us yielded, all hope was at an end. I have long since desponded of Georgetown, nor are my hopes more sanguine under the new than they have been under the old government; but it has in my estimation every consideration of

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reason and propriety on its side, and, of course, every effort should be made in its favor while there is a prospect of success.

Enclosures in Lord Dorchester's No. 82, of 14 Oct., 1788. Ex.

The manufactures of the states are in their infancy, yet the enterprising genius of the people may be gathered from the great exertions of individuals in this branch under all their present embarrassments. In Connecticut, attempts have been made to make silk, and with success; specimens are shown at New Haven College, and Dr. Styles, the president, who is a man of genius and perseverance, is indefatigable at present in promoting it. Nail manufactories are already established; there are two in Albany that supply the whole country, and the importation of nails from Great Britain has ceased in that neighborhood. A white-glass manufactory has lately been set on foot in Jersey, and the sale is not inconsiderable.

Pennsylvania has taken the lead in various branches of manufacture; it is said that there are at this time between two and three hundred stocking looms in the city of Philadelphia and different parts of the state, with full employment. Machines for carding and spinning cottons have been introduced, and jeans can be made on moderate terms. The culture of cotton is at present much attended to in the southern states.

Ed. Carrington to Madison, Fredericksburg, 19 Oct., 1788. Ex.

My dear Sir: Having traveled leisurely, I arrived here last evening, and shall proceed to-morrow morning for Richmond.

I left Mount Vernon on Friday; during my stay there I had much conversation with the general upon the probable politics of the assembly, with respect to the constitution. He is fully persuaded that anti-federalism will be the actuating principle, and that great circumspection is necessary to prevent very mischievous effects from a co-operation in the insidious proposition of New York. He is particularly alarmed from a prospect of an election for the senate, entirely anti-federal. It is said in this part of the state that Mr. Henry and Mr. R. H. Lee are to be pushed. I believe it is founded only in conjecture, but the general is apprehensive it may prove true; that to exclude the former will be impossible; and that the latter, being supported by his influence, will also get in, unless a federalist very well established in the confidence of the people can be opposed. He is decided in his wishes

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that you may be brought forwa
"that your views were to offer
legislature, in that branch whic
public, but that I had reason t
the house of representatives." U
dition to the considerations firs
senate will be of more importance
will be much depending on that
Some other observations were m
was his decided opinion that yo
senate.

St. John Crevecœur to Jefferson,

Never was so great a change in t
happened these five years; almost
ercive laws, government, union, ind
differences entertained by some peo
will no longer be a barrier; such w
future peace, opulence, and power.
singularly increased within these t
creased in proportion; manufacture
lishing in Pennsylvania, Connecticu
they begin to cultivate cotton, and
gines to spin it. Nails, canvas,
now making as good of their kin
building everywhere, new commu
ments forming; the fisheries hav
year; even here a singular spirit of
are paving all their streets in *dos d'*
side; toward the North river imn
adjacent banks, over which a beauti
laid out, which begins at the Batter
siderable part of which is alread
pounds have been subscribed for e
Hall, in order to accommodate the n
and Major l'Enfant has been appoin
he has planned himself. This co
pay its debts, by a wise system of
dustry of its inhabitants, and draw

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appalachian country is filling apace; there lies the embryo of new connections, a vast political field which I dare not explore.

J. B. Cutting to Jefferson.

There is a gentleman just arrived from Virginia; left the convention debating on the eleventh of June. He says he attended several days, and that nothing can exceed the seeming violence with which Mr. Henry and Colonel Grayson combat the constitution, except the ability with which Mr. Madison and Governor Randolph advocate it. Mr. Henry used such harsh language in reprobating the fickle conduct of the latter that the house compelled him to ask that gentleman's pardon. No doubt was entertained in Virginia respecting the ratification by that state.

Francis Corbin to Madison, 21 Oct., 1788. Ex.

A proposition will be brought forward in the assembly for a second convention of the states, and I fear it will be carried, although I have not yet been able to ascertain the complexion of the house, this being but the second day of our meeting. This proposition, it is said, will be introduced, not by Henry, but (*mirabile dictu!*) by our friend Randolph. He will injure his political reputation by his doublings and turnings. He is too Machiavellian and not Machiavellian enough. I wish, I sincerely wish, that he could be advised, and would take advice; but this, I fear, is out of the question. We Virginians are too much accustomed to solitude and slavery, too much puffed up with our own foolish pride and vanity, ever to entertain any other idea than that we alone are wise, and all the rest of the world fools.

General Lincoln to Washington, Boston, 25 Oct., 1788. Ex.

My dear General: I have the pleasure of transmitting to your Excellency a publication containing a number of letters written some time since by Mr. J. Adams. The writer has, I think, discovered great knowledge of our country and of the state of our affairs, and conducted his answers to the several questions with great address and in a very masterly manner.

Our general court meets here on Wednesday next. It is quite uncertain who will be our senators, or at the least one of them. Mr. Strong, I think, will be chosen; for the other seat there are many candidates—Mr. Bowdoin, Mr. S. Adams, Mr. R. King, Mr. Judge Dana, etc.

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Ed. Carrington to James Madison, Richmond, 9 Nov., 1788. Ex.

My dear Sir: The election for senators came on yesterday, and terminated as I gave you some reason to apprehend in my last. The ballots were as follows: For R. H. Lee, ninety-eight; for William Grayson, eighty-six; for James Madison, seventy-seven. The whole number of votes was one hundred and sixty-two, sixty-two whereof were given singly to you; of those cast away, Mr. H. got twenty-six, and the remainder were distributed to many others. I am confident that two thirds of the assembly are antis who meditate mischief against the government. You will therefore account for the majority against you upon principles not dishonorable to yourself; and indeed many must have voted from personal regard against their own principles, or you could not have received so great a ballot.

The voice of this state runs pretty unanimously for General Washington as president, and Mr. Henry is putting in agitation the name of Clinton for vice-president, which takes well with the antis; indeed, it is more than probable he will receive a majority among the electors to be chosen. Grayson is warm in such an election; he is, indeed, the devoted servant of Henry. You may rely upon it, my dear friend, that Mr. Henry will throw into the government every embarrassment he possibly can.

Carrington to Madison, Richmond, 15 Nov., 1788. Ex.

Your friends from the district will write you, and therefore I will not say more on the point of your election. You may, however, depend on meeting with all the opposition that can be brought into practice against you.

Washington to Madison, 17 Nov., 1788. Ex.

The accounts from Richmond are, indeed, very unpropitious to federal measures. In one word it is said that the edicts of Mr. H. are enregistered with less opposition in the Virginia assembly than those of the grand monarch by his parliaments. He has only to say, Let this be law, and it is law.

Carrington to Madison, Richmond, 18 Nov., 1788. Ex.

It is as yet not ascertained who will be started against you; within a few days there has arisen some reason to suspect that Colonel Mon-

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roe will be the man. Let me apprise you that you are upon no occasion of a public nature to expect favors from that gentleman.

Henry Lee to Madison, Alexandria, 19 Nov., 1788. Ex.

Except the mortification I feel personally at the late appointments and the evidence it holds up to the world of the temper of this state, I profess myself pleased with your exclusion from the senate, and I wish it may so happen in the lower house; then you will be left qualified to take part in the administration, which is the place proper for you. I had a full and confidential conversation with our sachem on all these points. He agreed precisely with me in the above opinion. He will come forward if the public happiness demands it, although his love of domestic repose renders him deaf to all the allurements of ambition and power. On nobler principles and with more generous views he will quit his happy situation, and if he quit, he will expect, and with justice too, the united and firm assistance of all friends to their country.

Ed. Carrington to Madison, Richmond, 26 Nov., 1788.

My dear Sir: Since my last to you it is decided that Monroe is to be your opponent; the interest of both Cabel and Strother will be combined in his favor. I wish you could be in the district, as no pains will be spared to impress the minds of the people with prejudices against you.

I have already apprised you of the political hostility of Monroe, and it will be well for you to pay some regard to it.

Washington to Rochambeau, 27 Nov., 1788.

Here we have all peace, and a happy prospect that the new government will soon be carried into execution. On your side of the Atlantic I am sorry to find that there is some probability of a general war. You will, I know, my dear count, applaud the wish which humanity makes to prevent the effusion of blood, even though you are a military man, and might have a better chance than most others to gather fresh laurels in the field of death.

D. Humphreys to Jefferson, Mount Vernon, 29 Nov., 1788. Ex.

The same General Wadsworth who was in congress with you at Annapolis became, in conjunction with two or three of his subalterns,

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the director of every political measure in Connecticut, and prevented, in almost every instance, a compliance with the requisitions of congress. On the other part, great numbers of those who wished to see an efficient federal government prevail, began to fear that the bulk of the people would never submit to it. In short, some of them who had been utterly averse to royalty began to imagine that hardly anything but a king could cure the evil. It was truly astonishing to have been witness to some conversations which I have heard. Still, all the more reasonable men saw that the remedy would be infinitely worse than the disease. In this fluctuating and irritable situation the public mind continued for some time.

Colonel R. H. Lee and Colonel Grayson, the senators of this state, are not comprehended under the denomination of federalists, but it is generally believed they will be less violent than many of their party. Mr. Madison was in nomination with those two gentlemen, and lost his election by eight or nine votes. This was owing entirely to Mr. Patrick Henry, who openly opposed his election, and who carries every measure he espouses in the assembly. In throwing the state into districts for the choice of representatives to congress, it is said, he has taken particular pains to prevent Mr. Madison from being chosen. Some who wish equally well to the government and Mr. Madison, imagine it may be the means of having him better employed as minister for the home department.

The opinion seems to be universal that General Washington will be elected president. Mr. John Adams, Mr. Hancock, and General Knox are spoken of as candidates for the vice-presidency. It is rather probable that the first will be appointed, than either of the others. Upon the whole, we may augur much more favorable things than appearances heretofore promised. The habits of industry and economy, which have been introduced by necessity, require only an efficient general government to ensure prosperity; and the people of the different states seem disposed to acquiesce in such a government, provided care be taken not to touch their purses too deeply.

The Count du Moustier, his sister, her son, and Mr. Du Pont, have lately been at Mount Vernon. The minister appears to be a very well informed man, and extremely desirous of promoting the commercial connection between France and this country.

He affects plainness in dress and simplicity of manners; but, perhaps, not so much to fall into American customs as the Chev.

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Luzerne did. It is questionable, therefore, whether he will be so popular.

Madame de Brehan appears very inquisitive after information. She does not find the country answer Mr. Crevecœur's description of it. Some ladies have thought she rather undervalued them, when she appeared in a considerable company with a three-cornered muslin handkerchief tied round her head, nearly in the fashion of the negro women in the West Indies.

Emigrations from the old settlements to the West continue to be immense. In the mean while the arts of peace are progressing in the old states, perhaps more rapidly than they have ever before done. The spirit of improvement is gaining ground. The three great bridges lately erected in Massachusetts do that state vast credit. The enterprise in trade and manufactures, supported by domestic economy, has, during the last year, for the first time made the exports from thence considerably more valuable than the imports into it. To this the trade to the East Indies has not a little contributed.

Washington to David Stuart, 2 Dec., 1788. Ex.

That the legislature of the state has displayed the most malignant (and, if one may be allowed the expression, the most unwarrantable) disposition toward the new government, in all its acts respecting it, needs no other evidence than their public records; but upon what ground they have undertaken to assert things which the representatives of the people, chosen for the express purpose in convention, have not authorized them to do, lies with the wisdom of the majority of that assembly to explain. Nor will it redound much to their honor, I conceive, if in the ultimate appeal to the people there should (as you have intimated) be seven out of the ten representatives on the federal side. But excuse me, my dear sir, when I give it to you as my opinion that you are reckoning without your host, as the phrase is. There may be such a proportion through the state who are friends to the adopted constitution, but they either do not see the necessity, or are too indolent or too much engaged in other matters to come forward, or too much disunited among themselves to act in unison; while those of the other description (or I am much mistaken) will be formed into one solid phalanx. Need I go out of this district for proof? In my opinion, Chatham Fitzhugh, or you, are the characters most likely to unite the suffrages of the federal interest in it. Neither will serve. What is the consequence?

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Why, a third is proposed, in who
fifth will have advocates, and neit
of the matter. I give it to you,
been already dragged into public
agreeable to me. It would seem
delegates (now in assembly) of ea
and resolve to support the fittest
to be disunited. Sorry, indeed,
the same fate in the district of
he has done in the assembly; an
able.

The expensive manner in which
really unavoidable), the bad years
crops, have occasioned me to run in
want of money than I have ever d
and obliges me to look forward to
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expect to receive the present year's

Washington to Colonel Her

Your intention to decline offer
district, since you have received a
is an unequivocal proof, if proof w
sitions to the new government; b
way of serving it is another ques
or yours is best in the district I am
but of one thing I am sure, and t
upon equal ground with the oppo
be the result of previous consultati

St. John Crevecœur to Jefferso

Notwithstanding all these unto
that the nail is clinched. This co
a government, and the sticklers
are head over heels in debt. Our
abilities to become the head of a
out for Albany; not that he is a
the spot and help in directing his

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Sir John Temple to Lord Carmarthen, New York, 7 Jan., 1789. Ex.

Many difficulties have arisen, and are daily arising, concerning the organization of the new constitution; anti-federalism daily gains ground in many of the states, so much so that it appears to me doubtful whether ever the said constitution will take place until it be altered or modified, and the tedious progress of state and general conventions for that purpose will render it at least a considerable time before any firm government shall be established.

J. E. Howard, Governor of Maryland, to Washington, Annapolis, 23 Jan., 1789.

In this state, the federal ticket has been carried by a very large majority. Knowing that this circumstance will give you pleasure, I have taken the earliest opportunity of communicating it. One circumstance I will add: that, in the county which bears your name, out of 1,164 taken, there was not one for the anti-federal ticket.

Tobias Lear to John Langdon, Mount Vernon, 31 Jan., 1789. Ex.

Since the assembly of this state have finished all matters relative to the government so far as depended upon them, the aspect of these affairs have assumed a more settled form, and will enable a person to speak with some degree of certainty upon them.

Mr. Henry, the leader of the opposition in this state, finding himself beaten off the ground by fair argument in the state convention, and outnumbered upon the important question, collected his whole strength and pointed his whole force against the government in the assembly. He here met with but a feeble opposition, for those great characters who had supported the system in the convention were not members of the assembly. There was not now a single speaker who could cope with him. He led on his almost unresisted phalanx, and planted the standard of hostility upon the very battlements of federalism.

In plain English, he ruled a majority of the assembly, and his edicts were registered by that body with less opposition than those of the Grand Monarque have met with from his parliaments. He chose the two senators, R. H. Lee and Colonel Grayson, both of whom had declared themselves opposed to the government. He divided the state into districts, obliging every district to choose one representative who

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should be an inhabitant of that district, taking care to arrange matters so as to have the county of which Mr. Madison is an inhabitant thrown into a district of which a majority were supposed to be unfriendly to the government, and by that means exclude him from the representative body in congress. He wrote the answer to Governor Clinton's letter, and likewise the circular letter to the executives of the several states (one of which, I presume, your Excellency has received before this time), requesting that the states might unite in desiring congress to call another general convention, etc. And after he had settled everything relative to the government wholly (I suppose) to his satisfaction, he mounted his horse and rode home, leaving the little business of the state to be done by anybody who chose to give themselves the trouble of attending to it.

This, I believe, is a pretty fair state of facts so far as they relate to the legislature. One thing, however, should be remarked, viz., that the doings of the assembly upon the government have been represented out of the state as their almost unanimous deed. This is not the case; there was a respectable minority in point of number, and in any other view they would be considered by all good men as far outweighing their opponents; and the voice of the people, in the choice of electors since the assembly have risen, clearly shows that their sentiments were not justly represented in that body, for they have made choice of gentlemen for that business of whom a great majority were warm and decided supporters of the government. But the fullest proof of the disposition of the people will be given in their choice of representatives to congress which will take place on Monday next, and of these, six, at least, will be federal characters. This the opposite party themselves acknowledge, and the more sanguine in favor of the government speak with confidence of seven or eight out of ten that will be warm supporters of the system. There can be but little doubt of Mr. Madison's election, for, notwithstanding their unwearied efforts to exclude him from any share in the government by the arrangement of the district, and every other obstacle that could be suggested, his personal appearance in the district and the exertions of his friends have so far turned the current in his favor that they chose a decided federalist as an elector in spite of every opposition. If he should be left out, not only this state but the whole continent will sustain a considerable loss by being deprived of his superior abilities.

Mr. Richard H. Lee has declared that, in his opinion, the govern-

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ment ought to have a fair trial in its present form, and that he shall be opposed to any premature amendments.

John Adams to Jefferson, Braintree, 1 March, 1789. Ex.

In four days the new government is to be erected. Washington appears to have an unanimous vote, and there is probably a plurality, if not a majority, in favor of your friend. It may be found easier to give authority than to yield obedience. Amendments to the constitution will be expected, and no doubt discussed.

Will you be so good as to look over the code, and write me your sentiments of amendments which you think necessary or useful? That greatest and most necessary of all amendments, the separation of the executive power from the legislative, seems to be better understood than it once was; without this our government is in danger of being a continual struggle between a junta of grandees for the first chair.

The success of the new plan will depend, in the first place, upon a revenue to defray the interest of the foreign and domestic debt. But how to get a revenue? how to render smuggling and evasion shameful?

You must expect the first operations will be very slow. Mrs. A., and your old admirer, my son, John Quincy Adams, desire their respects to you. With unabated respect, esteem, and affection, I am, my dear sir, your friend and humble servant, etc.

Washington to Captain Richard Conway, 4 March, 1789. Ex.

Dear Sir: Never till within these two years have I ever experienced the want of money. Short crops, and other causes not entirely within my control, make me feel it now very sensibly. To collect money without the intervention of suits (and these are tedious) seems impracticable, and land which I have offered for sale will not command cash at an under value, if at all. Under this statement I am inclined to do what I never expected to be driven to—that is, to borrow money on interest. Five hundred pounds would enable me to discharge what I owe in Alexandria, etc.; and to leave the state (if it shall not be in my power to remain at home in retirement) without doing this would be exceedingly disagreeable to me. Having thus fully and candidly explained myself, permit me to ask if it is in your power to supply me with the above, or a smaller sum. Any security you may best like I can give, and you may be assured that it is no more my inclination

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than it can be yours to let it remain long unpaid. Could I get in one fourth part of what is due to me on bonds, or sell any of the landed property which I am inclined to dispose of, I could do it with ease; but, independently of these, my rents and crops would soon enable me to do it, provided I am tolerably successful in the latter and have common justice done me in the former. Your answer will much oblige yours, etc.

Washington to Captain Richard Conway, 6 March, 1789. Ex.

Dear Sir: I am much obliged by your assurance of money. Mr. Lear waits upon you for it, and carries a bond, drawn in the manner you requested. I am very well satisfied to allow six per cent. (the interest of Maryland), because I have not the smallest doubt of the readiness with which you could lend any sum on those terms. If it is necessary that the bond should be taken in Maryland, I will exchange the one now sent for another to be given at Georgetown, or opposite to Alexandria (at whichever ferry I may pass). I would have done it this day, but being to set off to-morrow for Fredericksburg, in order, probably, to discharge the last act of personal duty I may (from her age) ever have it in my power to pay my mother, it would be very inconvenient for me.

Upon collecting my accounts by Mr. Lear, the other day, it was found that though five hundred pounds will enable me to discharge them, yet it is incompetent to this and the other purpose, the expenses of my journey to New York, if I go thither. If, therefore, you could add another hundred pounds to the former sum, it would be very acceptable. Mr. Lear is provided with a bond for this sum also.

As you said nothing about security in your letter, none is given, but I am not less willing and ready, notwithstanding, to include it in another bond if you desire it.

John Langdon to Washington, New York, 6 April, 1789.

Sir: I have the honor to transmit to your Excellency the information of your unanimous election to the office of president of the United States of America. Suffer me, sir, to indulge the hope that so auspicious a mark of public confidence will meet your approbation, and be considered as a sure pledge of the affection and support you are to expect from a free and an enlightened people.

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G. Washington to Robert R. Livingston, New York, 31 May, 1789.

SIR: The new and busy scenes in which I have been constantly engaged since my arrival in this place, and which will not allow me to pay that pointed attention to the favors of my friends that my inclination would lead me to do, will, I trust, apologize for this late acknowledgment of your letter of the fifteenth instant.

To you, sir, and others who know me, I believe it is unnecessary for me to say that when I accepted of the important trust committed to my charge by my country, I gave up every idea of personal gratification that I did not think was compatible with the public good. Under this impression I plainly foresaw that the part of my duty which obliged me to nominate persons to offices would, in many instances, be the most irksome and unpleasing; for however strong my personal attachment might be to any one—however desirous I might be of giving a proof of my friendship—and whatever might be his expectations, grounded upon the amity which had subsisted between us, I was fully determined to keep myself free from every engagement that could embarrass me in discharging this part of my administration. I have, therefore, uniformly declined giving any decisive answer to the numerous applications which have been made to me; being resolved, whenever I am called upon to nominate persons for those offices which may be created, that I will do it with a sole view to the public good, and shall bring forward those who upon every consideration, and from the best information I can obtain, will, in my judgment, be most likely to answer that great end.

The delicacy with which your letter was written, and your wishes insinuated, did not require me to be thus explicit on this head with you; but the desire which I have that those persons whose good opinion I value should know the principles on which I mean to act in this business, has led me to this full declaration; and I trust that the truly worthy and respectable characters in this country will do justice to the motives by which I am actuated in all my public transactions. I have the honor to be, with due consideration and very great esteem, sir, your most obedient and very humble servant, G. WASHINGTON.

Morgan Lewis to Hamilton, Rhinebeck, 24 June, 1789.

DEAR SIR: I am informed the inhabitants of New York have it in contemplation to make Mr. King one of our senators. Under this

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persuasion I have thrown it out in conversation to several of the country members, and have found it very generally disapproved of, so much so that I am satisfied it cannot at present be accomplished. I am afraid, too, it would interfere with the appointment of General Schuyler, in this way. Many persons think we are bound to support Judge Yates, in order to convince the public that our only object in pushing him for the government was not merely the removal of Mr. Clinton. This may operate with many as a reason for supporting the judge against the general. How will it answer to try the old chief for the southern district? This, I imagine, will give pretty general satisfaction. The old gentleman will be provided for, and Judge Yates satisfied with stepping into the chief justice's chair. Give me your sentiments upon this subject; and also upon the mode most proper to be adopted in the appointment of senators. Mrs. L. joins in compliments to Mrs. H. with, dear sir, your friend and humble servant,

MORGAN LEWIS.[1]

Secretary W. W. Grenville to Lord Dorchester (secret), Whitehall, 20 Oct., 1789.

MY LORD: Your lordship's despatches Nos. 107, 112, and 126, which relate to the new settlements in Kentucky, contain information highly important to the future interests of his Majesty's provinces in North America, and his Majesty has, therefore, seen with great satisfaction the attention which you have given to this subject. It appears extremely desirable that the turn of affairs in those settlements should lead to the establishment of a government distinct from that of the Atlantic states, and that if this should be the case, every means should be taken to improve and cultivate a connection with the former, as being likely to prove highly advantageous to the interests of this country. But this business does not (as far as I am enabled to judge from the information of which I am hitherto in possession) appear to be in a situation in which any direct or open interference on our part would be in any respect a proper or prudent measure. The great object of your lordship's endeavors should, therefore, be to cultivate such an intercourse with the leading men in the new settlements as might give

[1] The letter is addressed to Alexander Hamilton, Esq., New York, honored by Colonel Fish. The first endorsement made at the time is "Morgan Lewis, '89, Mr. King, Senator, June 24th." The later endorsement, without date, is "A good enough federalist at that time. A. H."

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to this country a facility of acting, if at any time a proper occasion should occur, and enable your lordship, even at present, in some degree to influence their conduct by representations and advice. It is particularly desirable to prevent any close connection being formed between them and the Spanish government. Their mutual jealousies on the subject of the Mississippi are, I trust, sufficient to retard this event, but if, contrary to expectation, it should appear likely to take place, your lordship should exert yourself to counteract it by all such measures as may not give any just ground of complaint to Spain. It is not, however, to be wished that your lordship should for this purpose make use of any promises of eventual, and still less of immediate, assistance, against the Atlantic states. His Majesty's servants, on the contrary, entirely concur in the prudence and propriety of the conduct held by your lordship in this respect, wishing that, whenever the case should occur, this country may be left at liberty to decide, according to then existing circumstances, as to the degree of support which it may be proper to hold out. The necessity of this caution is the more evident from the uncertain situation in which we stand toward the United States with respect to the posts which were ceded at the peace, and have since been retained as a just indemnification for the non-execution of that treaty. A connection with the Kentucky settlers might, in the event of any dispute with the Atlantic states, be of great advantage; and the means of cultivating such a connection ought, therefore, carefully to be kept in view while the point which I have mentioned remains unsettled; but, on the other hand, it is desirable that no measures should be taken which might have the effect of bringing forward any such dispute which might otherwise be avoided.

Having thus stated the general outline of what occurs to me on this subject, I have only to recommend it to your lordship to persevere in the same cautious line of conduct which you have already observed with respect to it, and to endeavor, if possible, to cultivate a close correspondence and intercourse with the principal persons among the Kentucky settlers, observing, however, very carefully, not to use any language which can in the smallest degree make this country a party to any attack on the possessions of his Catholic Majesty, with whom his Majesty is on a footing of peace and good correspondence. I am, etc.,

W. W. Grenville.

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Secretary W. W. Grenville to Lord Dorchester, Whitehall, 29 Oct., 1789. Ex.

There will be a considerable difficulty in the mode of describing the boundary between the district of upper Canada and the territories of the United States, as the adhering to the line mentioned in the treaty with America would exclude the posts which are still in his Majesty's possession, and which the infraction of the treaty on the part of America has induced his Majesty to retain, while, on the other hand, the including them by express words within the limits to be established for the province by an act of the British parliament, would probably excite a considerable degree of resentment among the inhabitants of the United States, and might perhaps provoke them to measures detrimental to our commercial interests. Possibly the best solution for this difficulty might be to describe the upper district by some general words, such as "All the territories, etc., etc., etc., possessed by and subject to his Majesty, and being to the west or southwest of the boundary line of lower Canada, except such as are included within the present boundaries of the government of New Brunswick."

Count Moustier to Count Montmorin, New York, 5 June, 1789. Ex.

The second revolution through which the United States have passed by the change of their federal government has put them in an entirely new light. This has appeared to me to exact greater details. This is the motive which has determined me to collect and to present to you different observations that may assist in forming a fixed opinion on the actual situation of the United States, and on the turn they may gradually take.

The constitution of the United States has defined with precision the different branches of the government; but their powers are still susceptible of many modifications, according to the usage that each branch may establish for that part which is confided to it, and according to the impression which its exercise will have produced. It is already beyond doubt that, in spite of the asserted beauty of the plan which has been adopted, it would have been necessary to renounce its introduction if the same man who presided over its formation had not been placed at the head of the enterprise. The opinion of General Washington was of such weight that it alone contributed more than any

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other measure to cause the present constitution to be adopted. The extreme confidence in his patriotism, his integrity, and his intelligence forms to-day its principal support. It has become popular much more out of respect for the chief of the republic than by any merit of its own. All is hushed in presence of the trust of the people in the savior of the country.

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